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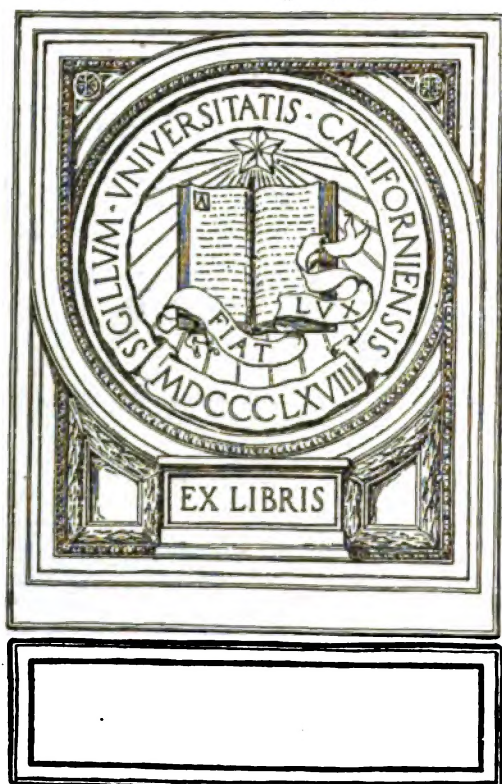
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COMMISSION REGULATION OF PUBLIC UTILITIES

**A COMPILATION AND ANALYSIS OF LAWS OF
FORTY-THREE STATES AND OF THE FED-
ERAL GOVERNMENT FOR THE REGU-
LATION BY CENTRAL COMMISSIONS
OF RAILROADS AND OTHER
PUBLIC UTILITIES**

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**Department on Regulation of Interstate and
Municipal Utilities**

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This volume was prepared as a part of an investigation of public utility regulation under the direction of the Executive Council of the Department on Regulation of Interstate and Municipal Utilities of The National Civic Federation.

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ANALYSIS OF LAWS

Manner of Preparation. The preparation of this volume re-

quired the gathering of statutes of 43 states and the federal government, the physical dismemberment thereof section by section, and sometimes sentence by sentence, and the classification and arrangement of the individual points into a compact and harmonious whole. The process might be likened to separating from a haystack wisps of a particular kind and sorting them according to some 300 characteristics determined while the work was in progress. To have selected from the laws of any jurisdiction sections relevant to the investigation and arranged them in numerical sequence under the name of that jurisdiction would have been comparatively simple. But in this work analogous material from each of 44 different jurisdictions relating to some 300 different topics has been brought together in one place and edited on a uniform basis. The scope of the topics necessarily had to be developed as the work progressed. The entire plan of handling the material represents a process of evolution based on day-to-day experiences. The actual work of gathering the statutes began February 23, 1912. The preliminary draft of the text of the compilation and analysis of laws was completed the last day of the year. Two months in addition were devoted to supplementing the text with material theretofore unclassified and necessary indexing and cross-referencing. Page proof copies of three-fourths of the work were submitted to the members and secretaries of the 46 commissions for corrections of references to the laws of their states. Numerous individuals and organizations examined and commented in detail on the method employed and the completeness of the individual chapters. All comments, suggestions and criticisms were examined in detail and were followed whenever they appeared well advised and consistent with the plan of the work. Within its scope, the compilation and analysis of laws is practically complete.

Scope of Compilation and Analysis. Commission regulation of public utilities being the object of the investigation, it was natural, in the search for material, to limit the field to commission jurisdictions. The material displayed, therefore, represents 44 jurisdictions: The federal act to regulate commerce, with its amendments and supplements, and the laws of the 43 states which in 1912 had central commissions for the regulation of utilities. The states of Delaware, Idaho, Utah, West Virginia and Wyoming are not represented because they have no commissions, although there exists in each of these states a considerable body of law the purpose of which is to provide, by direct legislative enactment without administration, a proper public regulation of public service undertakings. This legislation was carefully examined for any contributions it might make towards a thorough

understanding of the field of public regulation, but none of it has been given a place in this compilation and analysis of laws.

Selection of Material. Merely to limit the work to laws of commission jurisdictions does not establish a distinct line of demarcation between the material that has been used and the material that has been discarded. A large mass of statutory provisions, even in the commission states, appears as duties imposed upon utilities, in the form both of orders and prohibitions, rather than as powers conferred upon commissions. For the proper enforcement of many of these provisions authority is vested in commissions. But since the source of this authority is usually a provision entirely distinct from the provisions imposing these duties upon utilities, and since, too, this authority increasing the direct powers of commissions by a sort of "incorporation by reference" is usually stated in very general terms, it becomes a matter of no little difficulty to determine the exact scope of commission authority and to decide what portions of the statutory material rightfully deserve a place in a work of the nature of this compilation and analysis of laws. This difficulty was handled with the best judgment at the disposal of the investigating staff. It was often a task of equal difficulty to determine who far a recent law superseded older legislation or merely added to it. In some cases no absolute decision on this point can possibly be reached except by judicial determination. This matter was likewise handled with the best judgment available. It becomes obvious, however, that much of the legislative material in commission jurisdictions, though carefully examined, was necessarily omitted from the work as at present published. Two principles exerted a large influence in the selection of material in these doubtful cases. First, recent legislation was usually given the preference over older laws. The object in view was to present a living idea of the statutory situation as it is to-day, and this involved a greater emphasis upon present tendencies than upon old achievements in legislation. In the second place, there was less hesitancy in discarding material which has already been well digested and the effect of which has crystallized into more or less fixed legal rules than provisions the application of which is still in the experimental stage. To a large extent this likewise involved a contrast between old and new legislation, but it also involved a distinction between the kinds of utilities regulated. Railroad law, for example, was much more readily discarded than provisions regulating telephones, telegraphs, gas, electricity, water, etc.

Nature of Discarded Material. The nature of the important

classes of discarded material can be indicated readily. Provisions of general corporation law have been excluded. They open up a large field of legislation which applies for the most part to ordinary industrial corporations no less than to public service undertakings. These provisions involve, among numerous minor matters, questions of incorporation and organization, eminent domain and locations, and the entire problem of the taxation of corporations. By the omission of this material the provisions on franchises, stocks and bonds, and intercorporate relations have been largely narrowed. Again, maximum rate laws, even when enforcement has been left to commissions have been excluded generally. They represent temporary public discontent rather than wise policies of public regulation. The material dealing with the regulation of rates has been narrowed thus to no small extent. In like manner, provisions prescribing by legislative enactment specific facilities and standards of service and specific safety appliances and standards of safety, even when enforcement is left to commissions, have been excluded. These laws are examples of the old system of direct legislative regulation. The present-day tendency is to confer upon administrative commissions sufficient authority for effective regulation in these matters. By the omission of this material the provisions on the regulation of service and safety of operation have been largely narrowed. Material dealing with the regulation of municipally owned utilities has also been excluded. Though most of the fundamental principles of public regulation may be applied universally, regardless of the seat of ownership, attention in this investigation has been directed entirely to privately owned utilities. These represent the important classes of discarded material. The omission of less important provisions in a work of this sort is self-explanatory.

Form of Material. Whenever language has been of the essence the provisions have been given verbatim, as they appear in constitutions and statute books. This has been found to be necessary with practically all of the substantive material conferring authority upon commissions directly or leaving to commissions the enforcement of duties imposed upon utilities. Paraphrasing has been employed only in the omission of useless words and phrases where the scope or meaning of the grants of power could not possibly be affected. The summary form has been used only in the few instances where facts alone were involved and language had no substantive value, the employment of this summary form being limited to Chapter I, dealing with the organization of commissions. Throughout the work the sources of the material have been indicated. Citations

are given for every provision and fact included in the compilation and analysis of laws.

Presentation of Material. The material under every topic and subtopic of each chapter is displayed by jurisdictions in alphabetical order. This method of presentation not only makes of the compilation and analysis of laws a useful source of information but provides for the reader a ready basis of comparison between the provisions of any one jurisdiction on any given subject and similar provisions of all other jurisdictions. For the lawmaker this should prove of invaluable assistance in studying the varied experience of all our commonwealths. For utility managers, too, and especially for those who transact an interstate business, this localization of the provisions of all jurisdictions dealing with a given subject should prove of large practical value.

Identification of Provisions. It will be noted that the material of one jurisdiction is sometimes "identified" with the material of another jurisdiction. This expedient was adopted merely as a means of saving space, in order that this compilation and analysis of laws might not extend to unwieldy proportions. These identifications depend solely upon alphabetical sequence. The provision appearing first in the alphabetical order of jurisdictions is presented in full, and identical provisions in all other jurisdictions that follow are recorded as identical with the provision already displayed. It must be remembered that the order of these identifications has no historical significance. Thus it happens that earlier laws are sometimes referred to as identical with later laws. The best examples are the cases of Arizona and California, and Oregon and Wisconsin. The Arizona law is really a copy, almost verbatim, of the California law; and the laws of Oregon follow, in large measure, the laws of Wisconsin. Wherever the provisions are identical, however, the Arizona and Oregon laws are presented in full, inasmuch as they appear first alphabetically, instead of the laws of California and Wisconsin. This plan was adopted solely as a mechanical convenience for the handling of material. The substance of the legislative provisions is in no way affected, and the order of identification must not be taken as an evidence of jurisdictional initiative or credit.

Analysis of Material into Chapters. The compilation and analysis of laws has been divided into fifteen parts. The work opens with a chapter on Organization of Commissions. This chapter includes the important requirements of commission organization. Minor details are usually determined by the commissions themselves and are to be found in rules, regulations and orders promulgated by them.

Provisions dealing with the organization of boards and offices affiliated with commissions, even when under their direct supervision, have been excluded. Chapter II, on General Powers of Commissions, includes grants of power which give commissions general authority to regulate utilities. This authority is found in the use of language involving general supervision, in comprehensive enumeration of particular powers in summary form, and in grants of special powers of such broad scope as to amount to general regulation. Then follow four chapters which deal with the regulation of rates. Chapter III, on Basis of Rate Making, includes provisions prescribing that rates must be reasonable and indicating the various elements to be considered and the various devices that may be adopted by utilities and commissions in the establishment of reasonable rates. Provisions on valuation are here included because it is considered that the most important purpose of ascertaining the value of utility property is as a guide to rate making. Chapter IV, on Establishment and Change of Rates, includes grants of power authorizing commissions to regulate or prescribe the rates and charges of utilities, and such provisions as indicate the procedure to be followed in the exercise of these powers and the legal effect to be given to the rates and charges so established. Chapter V, on Publicity of Rates, includes provisions prescribing publicity in the establishment and change of rates by utilities or commissions, and such grants of power as authorize commissions to render publicity in rate making effective. Chapter VI, on Discrimination in Rates and Service, includes provisions regulating the making of rates and the providing of service in practice. They define and prohibit unjust discrimination in rates and service and indicate the kinds of special treatment which constitutes justifiable discrimination. It includes also grants of power authorizing commissions to determine under what conditions such circumstances exist as make discrimination justifiable. Provisions involving a refusal to serve because of race, business or profession have been excluded. The next two chapters deal with the adequacy and safety of service. Chapter VII, on Service, includes provisions prescribing that adequate service and facilities be maintained and provided for patrons and utilities, and such specific grants of power as authorize commissions to render these requirements effective. Chapter VIII, on Safety of Operation, includes grants of power authorizing commissions to regulate utilities with regard to the safety of the service rendered. Then follow two chapters which deal with accounts and reports. Chapter IX, on Accounts, includes grant of power authorizing commissions to prescribe systems of accounts

and to regulate accounting practices. It includes provisions giving commissions the right of access to, and inspection of, the books and records of utilities only insofar as these rights are granted strictly for the purpose of regulating accounts. Chapter X, on Reports, includes grants of power authorizing commissions to require formal reports and elicit general information from utilities, and such provisions as impose upon commissions the duty of submitting to designated authorities reports of their own proceedings and of the business and management of utilities. Provisions prescribing the filing of reports by utilities with other bodies or officers than commissions or commissioners have been excluded. The next three chapters deal with capitalization and competition. Chapter XI, on Franchises, includes grants of power authorizing commissions to regulate competition between utilities by requiring certificates of convenience and necessity to be issued by commissions as a condition precedent to the acquisition of new franchise privileges or to the exercise of franchise privileges previously granted. It also includes the Wisconsin law on indeterminate franchises. Chapter XII, on Stock and Bond Issues, includes grants of power authorizing commissions to regulate the capitalization of utilities. Chapter XIII, on Inter-
corporate Relations, includes grants of power authorizing commissions to supervise the relations of utilities between themselves with regard to finance and organization. Two chapters on procedure and enforcement complete the compilation and analysis of laws. Chapter XIV, on Commission Procedure and Practice, includes provisions prescribing the general procedure to be observed by commissions in the performance of their duties and the conduct of their proceedings, and such grants of power as authorize commissions to render these requirements effective. Provisions involving special procedure incident to the exercise of particular powers have not been repeated here. Chapter XV, on Enforcement, includes grants of power authorizing commissions to invoke judicial process for the enforcement of their orders and prescribing penalties for their violation, and such provisions as indicate the degree of validity to be attached to orders of commissions and as prescribe the procedure and legal effect of review of such orders by judicial tribunals. Provisions involving special enforcement machinery incident to the exercise by commissions of particular powers have been here excluded.

Jurisdiction and Definitions. The preliminary chapter on Jurisdiction of Commissions and Definitions is not incorporated in the body of the text of the compilation and analysis of laws for the reason that it contains itself no substantive provisions but in the last analy-

sis is an interpretative guide to an understanding of all of the substantive provisions throughout the text. The material incorporated in this chapter was selected with care, the purpose being to gather together only the jurisdictional statements and the definitions which had an important bearing on the text. Many definitions of a distinctly local application from the standpoint of the statutes in which they are found are localized in the text by being attached by footnote to the substantive provisions which they explain or modify. The definitions in this chapter are mainly definitions of general application to entire statutes. The combined statements of jurisdiction and definitions present concrete pictures of the status of legislation in each jurisdiction.

Scope Notes. The statutory material regulating utilities is an indivisible whole. Moreover, much of American legislation is passed in a form so haphazard and unsystematic as to present serious difficulties in any attempt at logical analysis and separation into elements. So any division of the material may appear in some respects arbitrary and necessarily involves considerable overlapping of provisions. To meet the situation in this work, each of the 15 chapters is headed by a note which aims to indicate the general scope of that chapter and its relation to every other chapter which contains similar or allied material. These scope notes, therefore, should make clear in each case the basis of the general analysis, and locate by means of their references such provisions as have been omitted from their proper chapters because they are incidental to material which belongs elsewhere.

Analysis of Chapters into Minor Divisions. To analyze each chapter into minor divisions and retain at the same time the statutory language and form of the material presents, of course, a much more difficult task than the analysis into chapters. The statutes cannot be dismembered physically in every case without clouding or destroying the meaning of many provisions by a loss of context. Moreover, the analysis of a law into the comparatively small elements represented by the divisions and subdivisions of chapters very often involves important questions of statutory construction on the part of the investigator. Furthermore, the physical separation of legislative provisions into their elements, if carried out in every case, would involve so much repetition of material and would result in so large an addition to the bulk of the compilation and analysis as to detract appreciably from the usefulness of the work. To meet these difficulties, the material has been broken up physically only into its natural divisions; that is, each provision has been placed under the

division or subdivision where it *primarily* belongs, although it may have involved *incidental* material which would logically belong elsewhere. In other words, no attempt has been made to dismember the material physically to such an extent as to include under each of the minor divisions every provision dealing with a given subject, no matter how inextricably incorporated in other material. It is believed that this method of handling the legislative provisions presents a more accurate picture of the statutory situation than otherwise could be attained; for while it presents a logical analysis of the subject matter of the statutes, it involves the least amount of tampering with the material as enacted by the various legislatures and the least amount of extra-judicial interpretation of its meaning.

Cross References. In order to make up for the apparent incompleteness resulting from the method of analysis just outlined, a system of cross referencing has been adopted, whereby under each jurisdiction in each division and subdivision references are made to any similar provisions appearing in any other part of the compilation and analysis. Such material, therefore, as does not seem to appear in its proper place because it could not be extracted physically from the provisions with which it is displayed is thus incorporated by reference. By the actual presentation of provisions or by means of cross references there are complete listings under each of the topics into which the chapters have been analyzed.

Index of Sections. A complete index of constitutional and statutory provisions is attached to the compilation and analysis of laws. This index shows, section by section, the paragraph of the text in which every provision that has been used of any constitution or statute may be found. This index has a twofold value: First it enables the user of the volume to ascertain what laws of a particular jurisdiction have been used; second, it enables one to find at a glance material from other jurisdictions analogous to a particular section in which he is interested.

Subject Index. Another drawback arising from the fact that the statutory material cannot be physically dismembered into small elements without doing violence to the laws as they appear on the statute books is that the analysis could not be carried as far as would be of the greatest advantage to the various classes in the hands of which this work is likely to find itself. The compilation and analysis has been supplemented, therefore, by a carefully prepared analytical index based upon the subject matter of the material. By means of this index the legislator, utility manager, student or publicist can

pursue his jurisdictional comparisons even with regard to the minute elements of commission regulation.

Addenda. A limited amount of material came to hand after the body of the text was fixed by the numbering of the paragraphs and the completion of indices. Some of this material was inserted in the text by means of footnotes to associated material. Other sections were placed in an *addendum*, numbered serially with the sections of the body of the text, and incorporated in the body by cross-references. In some instances material was found to have been included which might have been omitted but for the fixing of the text by the numbering of the paragraphs. This material was not disturbed.

Conclusion. Within clearly defined limits, then, this compilation and analysis of laws aims to present a complete and accurate picture of the statutory situation with regard to commission regulation of public utilities. In addition, much effort has been expended to make the work practically useful. If the labor and devotion involved in its preparation will make even the smallest contribution towards a better understanding of the increasingly vital relations between the public and the public service industries all who have participated in the work will feel amply repaid.

JURISDICTION OF COMMISSIONS AND DEFINITIONS

SCOPE NOTE

This chapter includes references in the language of the statutes to the utilities which can be reached by commissions, however great or small the extent of the commission authority, and a list of such definitions as indicate the scope of the utilities in particular jurisdictions. For provisions authorizing commissions to regulate allied businesses or dealing with the territorial jurisdiction of commissions, see ch. ii, on general powers of commissions. For general statement of scope and method, see introduction.

UNITED STATES

The provisions of this act shall apply to any corporation or any person or persons engaged in the transportation of oil or other commodity, except water and except natural or artificial gas, by means of pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, and to telegraph, telephone, and cable companies (whether wire or wireless) engaged in sending messages from one state, territory, or district of the United States to any other state, territory, or district of the United States or to any foreign country, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), from one state or territory of the United States or the District of Columbia to any other state or territory of the United States or the District of Columbia, or from one place in a territory to another place in the same territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country; provided, however, that the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one state and not shipped to or from a foreign country from or to any state or territory as aforesaid; nor shall they apply to the transmission of messages by telephone, telegraph, or cable wholly within one state and not transmitted to or from a foreign country from or to any state or territory as aforesaid. *Act to Regulate Commerce, as amended, sec. 1.*

DEFINITIONS.

ACT TO REGULATE COMMERCE, AS AMENDED, SEC. 1.

Common carrier shall include express companies and sleeping car companies.

Railroad shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and

shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property.

Transportation shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported.

ALABAMA

The provisions of this chapter shall apply to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing, and hauling of such property, and to all charges connected therewith, and shall apply to all railroad corporations, express companies, car companies, sleeping car companies, freight and freight line companies, steamboat or steam packet companies, terminal companies, or individuals who now or hereafter may own, operate, or control any railroad depot or terminal station, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carrier upon or over any line of railroad in whole or in part within this state, upon or over any navigable stream in whole or in part within the state or partly by rail and partly by water; but nothing in this article shall be construed as a regulation of or interference with interstate commerce. *Code 1907, sec. 5648.*

This chapter shall not apply to street and electric railroad engaged solely in the transportation of passengers within the limits of any one city, nor to logging or private railroads not doing business as common carriers. *Same, sec. 5649.*

The commission shall also have power of supervision and control over all telegraph and telephone lines operating in more than one city or town. *Same, sec. 5647.*

DEFINITIONS.

CODE 1907.

All corporations, companies, firms or individuals engaged in the transportation of persons or freight over railroads for hire are *common carriers*. *Sec. 5520.*

Transportation company shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees, or receivers that now, or may hereafter own, operate, manage or control as common carrier, any railroad or part of a railroad, in this state, or any cars, or other equipments used thereon, or bridges, terminals or side tracks used in connection therewith, whether owned by such railroad, or otherwise. *Sec. 5647.*

Transportation company shall also mean and embrace express companies, car

companies, sleeping car companies, steamboat or steam packet companies, and all corporations, individuals or associations of individuals, their lessees, trustees, or receivers that now or may hereafter own, operate or control any railroad depot or terminal station, over all of which the commission shall have the power of supervision and control. *Same.*

ACTS 1909, SP. SESS. 201, SEC. 1(1).

All railroad companies, or other companies, corporations, firms or individuals engaged in the transportation of persons, or freight over railroads for hire, and all navigation companies or steamboat or steam packet companies or corporations, firms or individuals engaged in the transportation of persons or freight by water, for hire, are hereby declared *common carriers*, and are hereby made subject to the provisions of this act.

ARIZONA

All corporations other than municipal engaged in carrying persons or property for hire; or in furnishing gas, oil, or electricity for light, fuel or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes; or in transmitting messages or furnishing public telegraph or telephone service, and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations. *Const. art. xv, sec. 2.*

All railroad, car, express, electric, transmission, telegraph, telephone, or pipe line corporations, for the transportation of persons, or of electricity, messages, water, oil, or other property for profit, are declared to be common carriers and subject to control by law. *Same, Sec. 10.*

DEFINITIONS.

SESS. LAWS 1912, CH. 90, SEC. 2.

Common Carrier includes every railroad corporation, street railroad corporation; express corporation; dispatch, sleeping car, dining car, drawing room car, freight, freight-line, refrigerator, oil, stock, fruit, car loaning, car renting car loading and every other car corporation or person; electrical corporation; transmission corporation; telegraph corporation; telephone corporation; water corporation; or pipe line corporation; for the transportation of persons or of electricity, messages, water, oil or other property, for profit, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state.

Corporation includes a corporation, a company, an association, and a joint stock association.

Electrical corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

Electric plant includes all real estate, fixtures and personal property owned, controlled, operated, or managed, in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property, for containing, holding, or carrying conductors used or to be used for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

Express corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise, or other property for compensation on the line of any common carrier or stage or auto stage line within this state.

Gas corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on, and distributed by the maker or producer through, private property alone solely for his own use or the use of his tenants and not for sale to others.

Gas plant includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed, in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

Person includes an individual, a firm, and a co-partnership.

Pipe line includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed, in connection with or to facilitate the transmission, storage, distribution, or delivery, of crude oil, or other fluid substance, except water, through pipe lines; in furnishing hot or cold air or steam for heating or cooling purposes.

Pipe line corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe line for compensation within this state.

Public service corporation includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, and warehouseman, as these terms are defined in this section, and each thereof is hereby declared to be a public service corporation and to be subject to the jurisdiction, control, and regulation of the commission and to the provisions of this act.

Railroad includes every commercial, interurban, and other railway, other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

Railroad corporation includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any railroad for compensation within this state.

Street railroad includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge, or public place within any

city, country or town, together with all real estate fixtures and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property; but the term *street railroad*, when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway.

Street railroad corporation includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any street railroad for compensation within this state.

Telegraph corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any telegraph line for compensation within this state.

Telegraph line includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

Telephone corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this state.

Telephone line includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

Transportation of persons includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported and the receipt, carriage, and delivery of such person and his baggage.

Transportation of property includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and handling, and the transmission of credit by express corporations.

Water corporation includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water system for compensation within this state.

Water system includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment, or measurement, or water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

ARKANSAS

Sec. 6820 of Kirby's Digest, 1904, provides that all the provisions of this act shall apply to and include all companies or corporations carrying property on any railroad as express matter and known-

as express companies as fully as if such persons, companies or corporations were specially named and designated therein.

The commission has jurisdiction over every person or corporation operating any railroad or express business in the state. *See Kirby's Digest, 1904, sec. 6002.*

The commission also has jurisdiction over sleeping car companies. *See Acts 1907, no. 422, sec. 4.*

CALIFORNIA

Every private corporation, and every individual or association of individuals, owning, operating, managing or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, within this state for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water, or power, or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a *public utility* subject to such control and regulation by the railroad commission as may be provided by the legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation. The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the state of California, and to fix the rates to be charged for commodities furnished or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the railroad commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution. From and after the passage by the legislature of laws conferring powers upon the railroad commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the railroad commission; provided, however, that this section shall not affect such powers of control over any public utility vested in any city or county or incorporated city or town as, at an election to be held pursuant to laws to be passed hereafter by

the legislature, a majority of the qualified electors voting thereon of city and county, or incorporated city or town, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the railroad commission as provided by law; and provided, further, that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the railroad commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to the railroad commission, it may, by like vote, thereafter reinvest itself with such power. *Const., art. xii, sec. 23.*

See also *sec. 82, ch. 14, and Stats. 1911, 1st ex. sess. secs. 1 to 10, ch. 40.*

DEFINITIONS.

STATS. 1911, 1ST EX. SESS., CH. 14, SEC. 2.

Definitions of the following terms are substantially identical with definitions of same terms in Arizona, Session Laws 1912, ch. 90, sec. 2: *Corporation, electrical corporation, electric plant, express corporation, gas corporation, gas plant, person, pipe line, pipe line corporation, railroad corporation, street railroad, street railroad corporation, telegraph corporation, telegraph line, telephone corporation, telephone line, transportation of persons, transportation of property, water corporation, water system.*

Common carrier includes every railroad corporation; street railroad corporation; express corporation, dispatch, sleeping car, dining car, drawing room car, freight, freight-line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state.

Public utility includes every common carrier, pipe-line corporation, gas corporation, electrical corporation telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is hereby declared to be a *public utility* and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act.

Railroad includes every commercial, interurban and other railway, other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

Vessel includes every species of water craft, by whatsoever power operated which is owned, controlled, operated or managed for public use in the transportation of persons or property.

Wharfinger includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

COLORADO

The provisions of this act shall apply to any corporation or to any person or persons who shall be held to be common carriers within the meaning and purpose of this act, and to any common carrier or carriers engaged in the transportation of passengers or property by railroad from one point or place within the state to any other point or place within the state. *Laws 1910, sp. sess., ch. 5, sec. 1.*

This act shall not apply to the ownership or operation of street railways conducted solely as common carriers in the transportation of passengers within the limits of cities and towns. *Same.*

DEFINITIONS:

LAWS 1910, SP. SESS., CH. 5, SEC. 2.

Common carriers shall also include express companies, private freight car lines and pipe lines.

Railroad shall include all bridges used or operated in connection with any railroad, and also all the roads in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and shall also include all switches, spurs, tracks and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards and grounds used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards and grounds, used or necessary in the transportation or delivery of any of said property.

Transportation shall include all cars, and all other vehicles and instrumentalities and facilities of a shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all service in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration or icing, demurrage, storing or handling of property transported; and it shall be the duty of every common carrier, subject to the provisions of this act, to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto, and to provide a sufficient number of cars, and a reasonable time schedule for trains.

CONNECTICUT

Commission has jurisdiction over public service companies as defined.

DEFINITIONS.

PUB. ACTS 1911, CH. 128, SEC. 1.

Electric company shall include every corporation, company, association, joint stock association, partnership, or person, or lessee thereof, owning, leasing, maintaining, operating, managing, or controlling poles, wires, conduits, or other fixtures, along public highways or streets, for the transmission or distribution of electric current for sale for light, heat, or power within this state, or engaged in generating electricity to be so transmitted or distributed for such purpose.

Gas company shall include every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing, or controlling mains, pipes or other fixtures, in public highways or streets, for the transmission or distribution of gas for sale for light, heat, or power within this state, or engaged in the manufacture of gas to be so transmitted or distributed for such purpose.

Plant shall include all real estate, buildings, tracks, pipes, mains, poles, wires, and other fixed or stationary construction and equipment, wherever located, used in the conduct of the business of the company.

Public service company shall include all common carriers, railroad, street railway, electric, gas, telephone, telegraph, and water companies owning, leasing, maintaining, operating, managing, or controlling plants, or parts of plants, or equipment, and all express companies having special privileges on railroads or street railways, within this state, but shall not include towns, cities, boroughs, or any municipal corporation or department thereof, whether separately incorporated or not.

Railroad company shall include every corporation, company, association, joint stock association, partnership, or person, or lessee thereof, owning, maintaining, operating, managing or controlling any railroad, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state.

Street railway company shall include every corporation, company, association, joint stock association, partnership, or person, or lessee thereof, owning, maintaining, operating, managing, or controlling any street railway, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state.

Water company shall include every corporation, company, association, joint stock association, partnership, or person, or lessee thereof, owning, maintaining, operating, managing, or controlling any pond, lake, reservoir, or distributing plant employed for the purpose of supplying water for general domestic use in any town, city, or borough, or portion thereof, within this state.

DELAWARE

No commission up to 1913.

FLORIDA

The provisions of this chapter¹ shall apply to the transportation of passengers and property and to the receiving, delivery, storage and handling of property wholly within this state, and shall apply to all railroad corporations, railroad companies and common carriers en-

¹Includes all of secs. 2882-3633 of Gen. Stats. 1906, as amended herein.

gaged in this state in the transportation of passengers or property by the railroads or common carriers therein, from any points within this state to any point within this state. *Gen. Stats. 1906, sec. 2890.*

Commission has power under laws 1911, ch. 6186, sec. 1, to regulate the charges and service within the state of all persons, firms or corporations engaged in or carrying on a telephone business within the state.

All the terms and provisions of this state as embraced in ch. 5,¹ tit. 4, div. 4, of the general statutes and all acts supplementary thereto or amendatory thereof are hereby declared to be of force with reference to all persons, firms or corporations carrying on a telephone business within this state so far as said laws are applicable to such persons, firms or corporations carrying on telephone business within this state. *Laws 1911, ch. 6186, sec. 2.*

All persons, firms and corporations owning, controlling or operating or that may hereafter own, control or operate a line or lines of telegraph whose line or lines is or are in whole or in part in this state, shall be under the control of the railroad commission of this state. *Laws 1911, ch. 6187, sec. 1.*

DEFINITIONS.

GEN. STATS. 1906, CH. 5, TIT. 4, DIV. 4.

Common carriers shall be deemed to mean and include: (1) all companies and any person or persons owning and operating railroads wholly or partly within this state; (2) all companies and any person or persons owning and operating steamships engaged in the transportation of freight or passenger from and to ports within this state; (3) all companies and any person or persons owning and operating steamboats used in the transportation of freight or passengers upon the rivers or inland waters of this state; (4) all companies and any person or persons owning or operating railroads, passenger terminals or union depots for the purpose of receiving, delivering or transferring passenger traffic to and from the place or city in which said terminal or union depot may be situated, or to or from one or more of the railroads operating its train service into said terminal or depot from or to any other such railroad or railroads; whenever any steamship or steamboat company owns and operates any barge, canal boat, steam tug, ferry boat or lighter, in connection with its ships or boats, the thing so owned and operated shall be deemed a part of its main line. *Sec. 2891.*

Railroad shall include all bridges and ferries used or operated in connection with any railroad operated wholly or in part in this state, all passenger terminal companies or union depot companies whether operating train service or not, and also all the road in use by any corporation, receiver, trustee, or any other person operating a railroad, whether operated under any contract, agreement, lease or otherwise, and the term *railroad corporation or railroad company*, as used in this act, shall be deemed to mean all corporations, associations, partnerships, trustees, agents, assignees and individuals, all express companies and sleeping car companies included, now owning or operating, or which may hereafter own or operate

¹ Includes all of secs. 2882-3633 of Gen. Stats. 1906, as used herein.

any railroad in whole or in part in this state, or owning or operating any train or car service on any railroad in this state. Whenever any railroad company owns and operates in connection with its road, and for the purpose of transporting its cars, freight or passengers, any steamer or other water craft, such steamer or water craft shall be deemed a part of its said road. *Sec. 2892.*

GEORGIA

Commission has jurisdiction over all common carriers, railroads, express corporations or companies, street railroads, railroad corporations or companies, dock wharfage corporations or companies, terminal or terminal station corporations or companies, telephone or telegraph corporations or companies, gas or electric light and power companies. *See Code 1911, sec. 2663.*

IDAHO

No commission up to 1913.

ILLINOIS

The provisions of this act shall apply to all persons, firms and companies and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon any of the lines of railways in this state (street railways excepted) the same as to railroad corporations hereinbefore mentioned. *Revisal, 1909, ch. 114, sec. 133.*

By sec. 186, commission is given supervision over every owner, lessee or manager of every public warehouse in the state.

Each and every person, firm, co-partnership, joint stock company, organization or corporation engaged either as owner or as lessee, agent, trustee or receiver, in transporting by rail or water, merchandise, property, parcels, packages, money and other commodities and things between points within the state of Illinois, and commonly known as express companies or carriers by express, shall be deemed and is hereby declared to be an express company or carrier by express and also a *common carrier*, and as such shall, from and after the passage of this act, as to the transportation of merchandise, property, parcels, packages, money and other commodities and things between points within the state of Illinois, be placed within the jurisdiction and under the supervision and control of the commission as provided in this act; provided, that this act¹ shall not apply to railroad companies or steamboat companies engaged in transporting freight. *Revisal 1909, ch. 114, sec. 368.*

¹ Embracing secs. 368-379 of 1909 Revisal.

DEFINITIONS.

REVISAL 1909, CH. 114.

Common carrier includes all railroad corporations, express companies, steamboat lines or other common carriers by water, private car line companies, sleeping car companies, fast freight line companies, and shall also include every other corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, operating or managing any such agency for public use in the conveyance of persons or property within this state; provided, teaming companies shall not be included within the definition herein stated; and, provided, further, that street railroads and hack lines and vehicles of a like character shall not be included within the terms of this section. *Sec. 187.*

Railroad includes every railroad, other than a street railroad, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, depots and power stations, and terminal facilities of every kind used or operated by any such railroad; and also all passenger or freight depots, yards, docks and grounds used by any railroad in the transportation of passengers or property. *Sec. 188.*

Railroad corporation shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate any railroad, in whole or in part in this state. *Sec. 133.*

Transportation shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, expressed or implied, for the use thereof, and all service in connection with the receipt, delivery and transfer in transit, refrigeration or icing, storage and handling of property transported. *Sec. 189.*

INDIANA

The provisions of this act shall apply to all such corporations, foreign or domestic, and to the receivers and lessees thereof, as shall be engaged in the business of a common carrier of freight in carload lots or less for hire on railroads between points within this state. The provisions of this act shall also apply to all carriers engaged in the performance of transfer or switching service on and over any terminal, transfer, belt or switching railroad in this state. The provisions of this act shall not apply to any carrier or carriers within this state whose income from freight business does not equal 33½ per cent. of their gross revenue. *Acts 1907, ch. 241, sec. 1.*

This act shall apply to all corporations, individuals, associations of individuals, their lessees, trustees, or receivers, appointed by any court that now, or may hereafter own, operate, manage or control any railroad, electric interurban, or suburban railroad, or part of any such railroad as a common carrier in this state, or cars, car companies, freight and freight line companies, private tracks and sidings, when controlled or used by any such common carriers, or other equipment used thereon, or bridges, terminals, or side tracks, or any docks, or

wharves, or storage elevators used in connection therewith, whether owned by such railroad, or otherwise. *Acts 1907, ch. 241, sec. 18.*

The provisions of this act shall also apply to all such corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers, appointed by any court, as shall be engaged in the express business or sleeping car business, and this act shall apply also to all express companies and sleeping car companies. *Same.*

The provisions of this act shall not apply to any street railroad company in so far as it may engage in the carriage of passengers in its local town or city cars within the limits of any towns or cities of this state or their suburbs. *Same.*

DEFINITIONS.

ACTS 1907, CH. 241, SEC. 18.

Carrier or carriers, railroad, railroad company, or railway, or railway company, whenever used in this act, shall for the purposes of this act and except as otherwise herein provided be held to mean and refer to all such railroads, electric interurbans, or suburban railroads, express companies and sleeping car companies so subject to the provisions of this act. The provisions of this act shall not apply to street railroads engaged solely in the carriage of passengers within the limits of any cities or towns in this state.

IOWA

Any railway operated upon the streets of a city or town by electric or other power than steam, which extends beyond the corporate limits of such city or town to another city, town or village, or any railway operated by electric or other power than steam, extending from one city, town or village to another city, town or village, shall be known as an interurban railway, and shall be a work of internal improvement. *Code 1897, sec. 2033a.*

The words *railway, railway company, railway corporation, railroad, railroad company and railroad corporation*, as used in the code and acts of the general assembly, now in force or hereafter enacted, are hereby declared to apply to and include all interurban railways, and all companies or corporations constructing, owning or operating such interurban street railways, and all provisions of the code and acts of the general assembly, now in force or hereafter enacted, affecting railways, railway companies, railway corporations, railroads, railroad companies and railroad corporations, are hereby declared to affect and apply in full force and effect to all interurban railways, and to all interurban railway companies or railway corporations constructing, owning or operating such interurban railways. *Same, sec. 2033b.*

Any interurban railway shall within the corporate limits of any

city or town, or of any city acting under a special charter, upon such streets as it shall use for transporting passengers, mail, baggage, and such parcels, packages, and freight as it may carry in its passenger or combination baggage cars only, be deemed a street railway, and be subject to the laws governing street railways. *Same, sec. 2033(c).*

Commission has jurisdiction over railroads operated by steam, express companies, car companies, sleeping car companies, freight and freight line companies, common carriers, engaged in the transportation of passengers or freight by railroad, street railroads excepted. *Code 1897, sec. 2112.*

The provisions of this chapter¹ shall apply to the transportation of passengers and property and to the receiving, delivering, storing and handling of property, wholly within this state, and shall apply to all railroad corporations, express companies, car companies, freight or freight line companies and to any common carrier engaged in this state in the transportation of passengers or property by railroad therein. Such provisions shall also apply to all persons, firms and corporations and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon any of the lines of railway in this state, street railways excepted, the same as to railroad corporations herein mentioned. *Code 1897, sec. 2122.*

All express companies operating and doing business in this state are declared to be common carriers, and all laws so far as applicable, now in force or hereafter enacted, regulating the transportation of property by railroad companies, shall apply with equal force and effect to express companies. *Code 1897, sec. 2165(a).*

Any system of railway operating cars within the state of Iowa over or upon any track other than steel or iron shall be known as an *automobile railway*, and shall be a work of internal improvement. The words *railway*, *railway company*, *railway corporation*, *railroad*, *railroad company*, or *railroad corporation*, as used in the code and acts of the general assembly now in force or hereafter enacted, are hereby declared to apply to and include automobile railways, and all companies or corporations owning or operating such automobile railways, and all provisions of the code and acts of the general assembly now in force or hereafter enacted, affecting railways, railway companies, railway corporations, railroads, railroad companies or railroad corporations, are hereby declared to affect and apply in full force and effect to all automobile railways and to all automobile railway companies owning or operating such automobile railways
Laws 1907, ch. 98, sec. 1.

¹ Chapter vii, title x, "Of the regulation of carriers by railroad," embracing sections 2122-2157 of Code 1897.

DEFINITIONS.

CODE 1897, SEC. 2122.

Railroad and *railway* shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation, receiver, trustee or other person operating a railroad, whether owned or operated under contract, agreement, lease or otherwise.

Railway corporation shall mean all corporations, companies or individual owning or operating any railroad in whole or in part in this state. . . .

Transportation shall include all instrumentalities of shipment or carriage. . . .

KANSAS

Commission is given general supervision of all railroads, express companies, sleeping car companies and all others doing business as common carriers; provided, the section granting such authority shall not be construed as applying to street railway or electric lines operated wholly within one county. *Gen. Stats. 1909, sec. 7186.*

The provisions of laws 1905, ch. 340,¹ shall be construed to be applied to and affect only the transportation of passengers, freight, express matter and cars between points within the state, by railroad and express companies and all other common carriers, not including street railway companies. *Gen. Stats. 1909, sec. 7179.*

Commission has same power in relation to irrigation companies that it has in relation to railroad companies. *Same, sec. 4478.*

Commission has jurisdiction over pipe lines for the conveyance of crude oil which are declared to be common carriers. *Same, sec. 3961, 3964.*

Nothing in this act shall apply to any public utility in this state owned and operated by any municipality. *Laws 1911, ch. 238, sec. 3.*

The power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people shall be vested exclusively in such city, subject only to the right to apply for relief to said public utilities commission, as hereinafter provided in section 33 of this act. *Same.*

This act shall not refer to or include mutual telephone companies. *Same.*

DEFINITIONS.

GEN. STATS. 1909, SEC. 7226.²

Person shall include persons, partnerships, joint-stock companies, or corporations.

Railroad company shall include and be construed to mean any incorporated

¹ Embracing sections 7169-7182 and section 7196 of Gen. Stats. 1909.

² Being part of Laws 1901, ch. 286, which embraces sections 7183-7188, 7197-7228, inclusive.

railroad company, or any express or transportation company, or other common carrier, or sleeping-car company, or private-car company, or any railroad-bridge company, or any person or persons, lessee, assignees, trustee, receiver, partnership, joint-stock company or corporation engaged wholly, partially, jointly or severally in laying out, constructing, owning, operating, using or maintaining any railroad operated by steam or electricity, or other motive power, or any portion or part of such railroad line.

LAWS 1911, CH. 238 (Public Utilities Commission Law).

Common carriers shall include all railroad companies, express companies, street railroads, suburban or inter-urban railroads, sleeping-car companies, freight-line companies, equipment companies, pipe-line companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state. *Sec. 4.*

Mutual telephone companies shall be understood to mean any co-operative telephone company operating only for the mutual benefit of its subscribers without profit other than in the service received. *Sec. 3.*

Public utility shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant, generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipe lines in or through any part of the state, except pipe lines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, or for the operation of any trolley lines, street, electrical or motor railway doing business in any county in the state; also all dining car companies doing business within the state, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. *Same.*

KENTUCKY

Commission has jurisdiction over all railroads. There appears to be no jurisdiction over street railways.

LOUISIANA

Commission is described as "a railroad, express, telephone, telegraph, steamboat and other water craft, and sleeping car commission." *Const., art. 283.*

All pipe lines through which gases, oils or other liquids are conveyed from one point in the state to another for a consideration, are common carriers and are under the control of and subject to regulation by the commission. *Stats. 1906, no. 36, sec. 1.*

MAINE

Commission has jurisdiction over railroad and street railroad corporations within the state.

MARYLAND

The jurisdiction, supervision, powers and duties of the commission herein created and established shall extend under this act:

To *railroads* and *street railroads* lying within the state, and to the person or corporation owning, leasing, operating or controlling the same.

To *street railroads*, any portion of whose lines lie within any incorporated city or town within this state, containing not less than 2,000 inhabitants, and to all transportation of persons or property thereon, and to the person or corporation owning, operating, controlling or leasing the said street railroads.

To such portion of the lines of any other *railroad* as lie within this state, and to the person or corporation owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities and local transportation of persons or property within the state.

To any *common carrier* operating or doing business within the state.

To the manufacture, sale or distribution of *gas*, natural or artificial, and *electricity* for light, heat and power, within the state of Maryland, and to the persons or corporation owning, leasing, operating or controlling the same; and to gas and electric plants, and to persons or corporations owning, operating, leasing or controlling the same.

To all *telephone lines*, as above defined, and all *telegraph lines* as above defined, and to every *telephone company*, and to every *telegraph company*, so far as said telephone and telegraph lines are and lie, and so far as said telephone companies and said telegraph companies conduct and operate such line or lines, respectively, within this state.

To all *water* companies and to the land, property, dams, water supplies, canals or power stations thereof and the operation of the same within this state.

To all persons, corporations or partnerships engaged in the "*transportation of property or freight*," as above defined, within this state.

To all corporations and persons whatsoever subject to the provisions of this act as herein defined.

And to such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly. *Laws 1910, ch. 180, sec. 3.*

This act shall apply to the manufacture and furnishing of gas for light, heat or power, and the furnishing of natural gas for light, heat or power, and the generation, furnishing and transmission of electricity for light, heat or power. *Laws 1910, ch. 180, sec. 31.*

This act shall apply to telegraph companies, telephone companies, telephone lines and telegraph lines within this state, and to persons and corporations engaged in the transmission of intelligence within this state by telephone or telegraph. *Same, sec. 39.*

All provisions of this act in reference to steam railroads, street railroads, gas and electric light corporations and common carriers,

in reference to hearings, summoning witnesses, taking of testimony, reports, approval of incorporation and certificates of franchises, the approval of issues of stock, bonds and other forms of indebtedness, consolidation, lease, transfer of franchises, valuation of property, plants and franchises, keeping of accounts, complaints as to quality, price, facilities furnished, the fixing of just and reasonable prices and adequacy of service, forfeitures of all descriptions, forfeitures for non-compliance with the orders, summary proceedings under this act, excessive charges for product, service or facilities, proceedings before said commission and proceedings in any court mentioned in this act, and any and all other sections, paragraphs, provisions and parts of this act in reference to any other corporations subject to any of its provisions, so far as the same shall be practically, legally or necessarily applicable to telephone or telegraph companies or corporations controlling telephone or telegraph lines in this state are hereby made applicable to such telephone and telegraph companies and to corporations controlling telephone and telegraph lines, and shall have full application thereto. *Same, sec. 41.*

All provisions in this act in reference to steam railroads, street railroads, gas corporations, electric corporations, common carriers and telephone and telegraph companies, with respect to the jurisdiction, powers and duties of said commission over and in relation to the said corporations and companies, and with respect to hearings, summoning witnesses, taking of testimony, reports, approval of incorporation and certificates of franchises, of issue of stocks, bonds and other forms of indebtedness, consolidation, lease and transfer of franchises, valuation of property, plant and franchise, keeping of accounts, complaints as to quality, price and facilities furnished, the fixing of just and reasonable prices, services and facilities, forfeitures and penalties of all descriptions, summary proceedings, proceedings before said commission and proceedings in any court mentioned in this act, and any and all other sections, paragraphs, provisions and parts of this act in reference to any corporations subject to its provisions, so far as the same or any of the same may be practically, legally or necessarily applicable to water companies, and heat or refrigerating corporations, and to power companies or corporations, and to their respective service and charges and to their property, plant, franchises and management, are hereby made applicable to such corporations and companies, their service, charges, property, plant, franchises and management, and shall have full application thereto. *Same, sec. 42.*

DEFINITIONS.

LAWS 1910, CH. 180, SEC. 1.

Common carrier, includes all railroad corporations, street railroad corporations, express companies, car companies, sleeping car companies, freight companies, freight line companies, steamboat, powerboat and vessel-boat and ferry companies, canal companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state, by land or by water, or by both.

Corporation includes a corporation, company, association and joint stock company or association.

Electrical corporation includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, (other than a railroad or a street railroad corporation generating electricity for its own use solely and exclusively), owning, operating, managing or controlling any plant or property including any water plant, or water property, or water falls, or dam, or water power station, for generating and distributing or generating and selling for distribution, or selling or distributing electricity for light, heat or power, or for the transmission of electric current for such purposes, or for any public use whatsoever.

Electric plant includes (1) engines, boilers, dynamos, generators, storage batteries, converters, motors, transformers, cables, wires, services, poles, lamps, meters, real estate, easements, materials, apparatus, devices and property of every kind operated, controlled, owned, used, or to be used, for or in connection with, or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and (2) any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying electrical conductors used or to be used, wholly or in part, for the transmission of electricity for light, heat or power.

Gas corporation includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing and distributing and selling for distribution or selling or distributing illuminating gas (natural or artificial or manufactured, and wheresoever and howsoever derived or obtained) for light, heat, fuel or power, or for any public use whatsoever.

Gas plant includes boilers, water gas sets, retorts, condensers, scrubbers, purifiers, holders, mains, pipes, services, pipe galleries, meters, buildings, real estate, easements, lamps, materials, apparatus, devices and property of every kind operated, controlled, owned, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas (natural or manufactured) for light, heat or power.

Heat or refrigerating corporation includes every corporation, company, association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing and distributing and selling for distribution, or distributing hot or cold water, steam or currents of hot or cold air for motive power, heating, cooking, refrigeration, or for any public use or service in any city, town or village in this state.

Person includes an individual and a firm or copartnership.

Railroad includes every railroad, other than a street railroad, by whatsoever

power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations and terminal facilities of every kind, used, operated, controlled or owned by or in connection with any such railroad.

Railroad corporation includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, managing or controlling any railroad or any cars or other equipment used thereon, or in connection therewith.

Street railroad includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within the corporate limits of the city of Baltimore or any other city or town containing a population of not less than 2,000 persons, within the state of Maryland, and including all switches, spurs, tracks, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind, used, operated, controlled or owned by or in connection with any such street railroad; but the said term *street railroad*, when used in this act, shall not include a railroad constituting or used as part of a trunk line railroad system.

Street railroad corporation includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, holding, operating, managing or controlling any street railroad or any cars or other equipment used thereon or in connection therewith.

Telegraph Company includes every corporation, company, association, joint stock company or association, partnership and persons, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling, any plant, wires, poles or property for the purposes of communication or of transmitting or receiving messages by telegraph, or by any telegraphic apparatus or instrument, or which licenses, lets or permits telegraphic communication for hire.

Telegraph lines includes the system, or any part of the system of poles, wires crossbars, instruments, machines, appliances, real estate, easements, appurtenances, apparatus and property used, operated, controlled or owned by or in connection with the business of any telegraph company.

Telephone company includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant, wires, poles or property, for the reception, transmission or communication of messages by telephone or telephonic apparatus or instruments, or which licenses, lets or permits telephonic communication for hire.

Telephone lines includes the system, or any part of the system of poles, wires, crossbars, receivers, transmitters, instruments, machines, appliances, real estate, easements, apparatus, appurtenances and property used, operated, controlled or owned by or in connection with the business of any telephone company.

Transportation of property or freight includes any service in connection with the receiving, delivering, elevation, transfer, in transit, ventilation, refrigeration, icing, storage and handling of the property or freight transported.

Water company includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or re-

ceivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water.

MASSACHUSETTS

Gas and electric light commission has jurisdiction over gas and electric light companies.

Railroad commission has jurisdiction over railroads, electric railways and street railways.

Highways commission has jurisdiction over telephone and telegraph companies.

State board of health has jurisdiction over any company engaged in the business of supplying water to cities or towns or the inhabitants thereof.

The provisions of chapter 58, Revised Laws 1902, shall apply to all persons, corporations and municipalities which manufacture or distribute gas for sale and the terms *gas company* and *gas light company* shall be construed as including all persons, companies and municipalities owning or operating works for the manufacture and sale of gas for heating or illuminating purposes. *Sec. 19, as amended by Acts 1909, ch. 483, sec. 4.*

DEFINITIONS.

ACTS 1906, CH. 433, SEC. 12.

Company shall include every person, partnership, association and corporation engaged in the business of the transmission of intelligence by electricity.

ACTS 1906, CH. 463, PT. II, SEC. 1.

Railroad means a railroad or railway of the class usually operated by steam power.

Railroad and railways means all railroads and railways except tramways in mines and marine railways.

Railroad corporation means the corporation which lays out, constructs, maintains or operates a railroad of the class usually operated by steam power.

ACTS 1906, CH. 463, PT. III, SEC. 1.

Extension means any railway constructed by a street railway company in a city or town in addition to that authorized by its original location therein.

Location as applied to a street railway, means the grant to a street railway company of the right to construct, maintain and operate a street railway in a public way or place.

Original as applied to a street railway location in a city or town, means the first location granted to the company in such city or town.

Street railway or *railway* means a railroad or railway, including poles, wires or other appliances and equipment connected therewith, of the class operated by motive power other than steam, and usually constructed upon the public ways and places.

MICHIGAN

Commission has jurisdiction over the business of transmitting and supplying electricity when electricity is generated or developed by steam, water or other power within one county of the state and transmitted and delivered to the consumer in the same or some other county. *Pub. Acts 1909, no. 106, secs. 1 and 2.*

This act shall not apply to the transmission or use of electricity for the purpose of conveying intelligence by telegraph, telephone or other methods now or hereafter adopted therefor. *Same, sec. 9.*

Commission has jurisdiction over common carriers, including express and sleeping car companies. *Pub. Acts 1909, no. 300, sec. 3.*

Nothing in this act contained shall apply to street and electric railroads engaged solely in the transportation of passengers within the limits of cities or within a distance of five miles of the boundaries thereof. *Same.*

Nothing in this act contained shall be construed to authorize the commission to interfere with, lessen or impair, or to authorize the impairment of any franchise provision, contract or agreement as to rate of fares now existing between any municipality, city, village or township and any tram railway, street railway, interurban or suburban railway company, or to increase or lessen the rate of fare fixed by such franchise, contract or agreement, or to deprive any tram railway, street railway, interurban or suburban railway company of the right to charge for the carriage of passengers the rate of fare authorized and fixed by any franchise, grant or contract made or entered into between any municipality, city, village or township and any such tram railway, street railway, interurban or suburban railway company. *Pub. Acts 1909, no. 300, sec. 3(c), as amended by Pub. Acts 1911, no. 173.*

The provisions of this act shall apply to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith, including icing and mileage charges. *Same, sec. 1.*

Commission has jurisdiction over telephone companies. *Pub. Acts 1911, no. 138, sec. 2.*

DEFINITIONS.

PUB. ACTS 1909, no. 300, SEC. 3.

Common carrier shall be construed to mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers appointed by any court whatsoever, who now or may hereafter own,

operate, manage or control as a common carrier in this state, any railroad or part of any railroad, whether operated by steam, electricity or other motive power, or cars or any other equipment used thereon, or bridges, switches, spurs, tracks, side tracks, terminal facilities, or any docks, wharves or storage elevators used in connection therewith or any kind of terminal facilities used or necessary in the transportation of persons or property designated herein, and also all freight depots, yards and grounds used or necessary for the transportation or delivery of any said property and whether the same are owned by said railroad or otherwise; or any express company, car loaning companies, freight or freight line companies and all associations or persons, whether incorporated or otherwise, that shall do business as common carriers upon or over any line of railroads in this state, or any common carrier engaged in the transportation of passengers and property wholly by rail or partly by rail and partly by water.

Express companies and *sleeping car* companies doing business for hire within this state are hereby defined to be *common carriers*.

Railroad shall be construed to mean all railroads, whether operated by steam, electric or other motive power.

Transportation shall include cars and other vehicles and all instrumentalities and facilities of shipment, or carriage, irrespective of ownership, or of any contract expressed or implied for the use thereof, and all services in connection with the receipt, delivery, elevation, switching and transfer in transit, ventilation, refrigeration or icing, storage and handling of persons or property transported.

PUB. ACTS 1911, NO. 138, SEC. 1.

All persons, corporations and associations operating *telephone* lines or exchanges doing a *telephone* business within the state of Michigan, are hereby declared to be *common carriers*; and all laws so far as applicable now in force or that may be hereafter enacted, regulating the transportation of persons or property by railroad companies within the state, shall apply with equal force and effect to telephone companies.

MINNESOTA

Commission has jurisdiction over railroads and express companies doing business as common carriers and over public warehouses. *Rev. Laws 1905, ch. 28, sec. 1953.*

All provisions of this chapter regarding the construction, maintenance and operation of railroads and the duties and liabilities of railroad companies shall apply to any firm or person operating a railroad, whether as owner, lessee, trustee, receiver or otherwise, and the terms *company* wherever used in this chapter shall be construed to include any such firm or person when such construction is not inconsistent with the context. *Same, sec. 2045.*

DEFINITIONS.

REV. LAWS 1905, CH. 28.

Carrier shall include all common carriers engaged in the transportation of persons or property between places within this state by railroad, or partly by railroad and partly by water, when both are used under a common control, ownership, management, or arrangement for such carriage without regard to the

motive power, whether such carrier owns or operates the line or lines over which such passengers or freight are transported, or carries the same over the lines or in the cars of any other company as an express or transportation company, but shall not include street railways so far as relates to the carriage of persons or property wholly within the limits of any municipality or municipalities. *Sec. 1990.*

Railroad shall include all bridges or ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned, or operated under a lease or other contract. *Sec. 1991.*

Transportation shall include all instrumentalities of shipment or carriage. *Same.*

MISSISSIPPI

Railroads, express, telegraph, telephone and sleeping car companies are common carriers. *Const., art. vii, secs. 184, 195.*

Commission has jurisdiction over railroads, express, telegraph, telephone and sleeping car companies, car service associations and other associations governing or controlling cars or rolling stock of railroads in the same manner as railroads. *Code 1906, sec. 4843.*

All laws and parts of laws giving authority to the commission to supervise common carriers shall also apply to car service associations or other associations governing or controlling cars or rolling stock of railroads at whatever places they do business in the state. *Laws 1908, ch. 87, sec. 2.*

MISSOURI

Commission has jurisdiction over railroads, express companies and warehouses.

MONTANA

All railroads, transportation and express companies shall be common carriers. *Const., art. xv, sec. 5.*

The provisions of this act shall apply to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith and shall apply to railroad companies, express companies, car companies, sleeping car companies, freight and freight line companies, and to any shipments of property made from any point within this state to any other point within this state, whether the transportation of the same shall be wholly within this state or partly within this state and partly within an adjoining state or states. *Rev. Codes 1907, sec. 4373.*

The provisions of this act shall apply to all persons, firms or

companies, incorporated or otherwise, that shall do business as common carriers upon any of the lines of railroad in this state. *Same.*

DEFINITIONS.

REV. CODES 1907 (RAILROAD COMMISSION ACT, EMBRACING SECS. 4363 TO 4398).

Railroad shall be taken to mean any corporation, company or individual owning or operating any railroad, in whole or in part, in this state. It shall also include express companies and sleeping car companies. *Sec. 4373.*

Railroad shall be held to mean and include railroad companies, express companies, car companies, sleeping car companies, freight and freight line companies, and all common carriers. *Sec. 4374.*

Transportation shall include all instrumentalities of shipment or carriage. *Sec. 4373.*

NEBRASKA

Commission has jurisdiction over railroads, express companies, car companies, sleeping car companies, freight and freight line companies and any other common carriers engaged in the transportation of freight or passengers within the state. *Stats. 1907, sec. 10650(b).*

DEFINITIONS.

STATS. 1907, SEC. 10652.

Common carriers include railroads, interurban or street railway lines operated either by steam or electricity or any other motive power, or any express company, car company, sleeping car company, freight and freight line company, telegraph and telephone company, and any other carrier engaged in the transmission of messages or transportation of passengers or freight for hire. *Same, sec. 10652.*

NEVADA

Commission has jurisdiction over railroads, express, telegraph and telephone companies, companies owning cars of any kind or character, used and operated as a part of railroad trains and public utilities.

The provisions of this act shall apply to the transportation of passengers and property and the transmission of messages between points within the state, and to the receiving, switching, delivering, storing and hauling of such property, and receiving and delivering messages, and to all charges connected therewith, including icing charges and mileage charges, and shall apply to all railroads, corporations, express companies, car companies, freight and freight line companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers, upon or over any line of railroad within this state, and to any common carrier engaged in the transportation of passengers and property, wholly by rail, or partly by rail and partly by water. *Stats. 1907, ch. 44, sec. 2(a), as amended by Stats. 1909, ch. 121, sec. 2.*

DEFINITIONS.

STATS. 1907, CH. 44, SEC. 2, AS AMENDED BY STATS. 1909, CH. 121, SEC. 2.

Railroad shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever) that now, or may hereafter, own, operate, manage, or control any railroad or part of a railroad as a common carrier in this state, or cars, or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or storage elevators used in connection therewith, whether owned by such railroads or otherwise.

Railroad whenever used herein, shall mean and embrace express companies, telegraph and telephone companies, and all companies which may own cars of any kind or character, used and operated as a part of railroad trains, in or through this state, and all duties required of and penalties imposed upon any railroad or any officer or agent thereof shall, in so far as the same are applicable, be required of and imposed upon express companies, telegraph and telephone companies, and companies which may own cars of any kind or character, used and operated as a part of railroad trains in or through this state, and their officers and agents, and the commission shall have the power of supervision and control of all such companies to the same extent as of railroads.

STATS. 1911, CH. 162, SEC. 3.

Public utility shall embrace every corporation, company, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever, that now or hereafter may own, operate or control any plant or equipment, or any part of a plant or equipment within the state for the production, delivery or furnishing for or to other persons, firms, associations, or corporations, private or municipal, heat, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service whether within the limits of municipalities, towns or villages, or elsewhere; and the commission is hereby invested with full power of supervision, regulation and control of all such utilities subject to the provisions of this act and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village.

NEW HAMPSHIRE

Commission has jurisdiction over railroads and public utilities.

DEFINITIONS.

LAWS, 1909, CH. 126, SEC. 1.

Carrier shall be construed to mean all common carriers of passengers including railroads.

LAWS 1911, CH. 164, SEC. 1.

Public utility shall include every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, except municipal corporations, owning, operating or managing any plant or equipment or any part of the same for the conveyance of telephone or telegraph messages or for the manufacture or furnishing of light, heat, power or water for the public, or owning or operating any ferry or toll bridge.

Railroad shall include every railroad and street railway by whatever power operated which is open to public use in the conveyance of persons or property, for a compensation, also all bridges, grade crossings, under passes, switches, spurs, tracks, equipment, stations and terminals and other facilities and property of every kind whatever, used, operated or owned by or in connection with any such railroad or railway.

Railroad corporation shall include every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating or managing any railroad or street railway or any cars or equipment used thereon or in connection therewith, or engaged in carrying on a public express business over the line of any railroad.

NEW JERSEY

Commission has jurisdiction over all public utilities and over their property, property rights, equipment, facilities and franchises, so far as may be necessary for the purpose of carrying out the provisions of this act. *Laws 1911, ch. 195, sec. 15.*

LAWS 1911, CH. 195, SEC. 15.

Public utility is hereby defined to include every individual, co-partnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, that now or hereafter may own, operate, manage or control within the state of New Jersey any steam railroad, street railway, traction railway, canal, express, subway, pipe line, gas, electric light, heat, power, water, oil, sewer, telephone, telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by the state of New Jersey or by any political subdivision thereof.

NEW MEXICO

Commission has jurisdiction over railway, express, telegraph, telephone, sleeping car and other transportation and transmission companies, and common carriers within the state. *Const., art. XI, sec. 7.*

NEW YORK

Commission has jurisdiction over transportation of passengers or property from one point to another within the state and over any common carrier performing such service, including any person or corporation who or which owns or operates any stage route in any city of 1,000,000 inhabitants; over the manufacture and furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat or power; over the generation, furnishing and transmission

of electricity for light, heat and power; over communication by telegraph or telephone between one point and another within the state; and over every telegraph and telephone corporation. *Laws 1909, ch. 219, sec. 24; Laws 1910, ch. 480, secs. 25, 64, 90.*

Corporations formed to acquire property or to transact business which would be subject to the provisions of this chapter, and corporations possessing franchises for any of the purposes contemplated by this chapter, shall be deemed to be subject to the provisions of this chapter although no property may have been acquired, business transacted or franchises exercised. *Laws 1910, ch. 480, sec. 5(7).*

DEFINITIONS.

LAWS 1910, CH. 480, SEC. 2.

Common carrier includes all railroad corporations, street railroad corporations, express companies, car companies, sleeping-car companies, freight companies, freight-line companies, and every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any such agency for public use in the conveyance of persons or property within this state; but the said term *common carrier* when used in this chapter shall not include an express company unless the same is operated wholly or in part upon, or in connection with, a railroad or street railroad.

Corporation includes a corporation, company, association and joint-stock association. •

Electrical Corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad corporation generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others) owning, operating or managing any electric plant, except where electricity is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others.

Electric plant includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

Gas corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any gas plant except where gas is made or produced and distributed by the maker on or through private property solely for its own use or the use of its tenants and not for sale to others.

Gas plant includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas (natural or manufactured) for light, heat or power.

Municipality includes a city, village, town or lighting district, organized as provided by a general or special act.

Person includes an individual, and a firm or copartnership.

Railroad includes every railroad, other than a street railroad, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities of every kind used, operated or owned by or in connection with any such railroad.

Railroad corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any railroad or any cars or other equipment used thereon or in connection therewith.

Street railroad includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for compensation, being mainly upon, along, or below any street, avenue, road, highway, bridge or public place in any city, village or town, and including all equipment, switches, spurs, tracks, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind used, operated or owned by or in connection with any such street railroad; but the said term *street railroad*, when used in this chapter, shall not include a railroad constituting or used as part of a trunk line railroad system.

Street railroad corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever owning, operating or managing any street railroad or any cars or other equipment used thereon or in connection therewith.

Telegraph corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph.

Telegraph line includes conduits, ducts, poles, wires, cables, cross-arms, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph corporation to facilitate the business of affording communication by telegraph.

Telephone corporation includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire; excepting, however, any corporation, company association, joint-stock association, partnership or person, their lessees, trustees or receivers, having property actually used in the public service within the state of a value not exceeding \$10,000, or which do not operate the business of affording telephonic communication for profit.

Telephone line includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telephone corporation to facilitate the business of affording telephonic communication.

Transportation of property includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported.

NORTH CAROLINA

Commission has jurisdiction over railroad, street railway, steamboat, canal, express and sleeping car companies and all other common carriers and over telephone and telegraph companies. *Pell's Revisal 1908, sec. 1066.*

Every person or individual owning and operating any telephone or telegraph line, who rents poles or wires to persons generally shall be subject to the same control and supervision by the commission as are corporations owning and operating telephone and telegraph lines. *Acts 1907, ch. 966, sec. 1.*

NORTH DAKOTA

All railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight are declared to be common carriers and subject to legislative control. *Cont., art. VII, sec. 142.*

The provisions of this article¹ shall apply to the transportation of passengers, property and the transmission of messages between points within this state and to the receiving, switching, delivering, storing and hauling of such property and receiving and delivering and carrying all messages and of all charges connected therewith, including icing and mileage charges, and shall apply to all railroad corporations, express companies, car companies, freight and freight line companies and to all associations of persons, whether incorporated or otherwise, that shall do business within this state and to any common carrier within the state that shall do business upon or from any line or railroad within the state and to any common carrier engaged in the transportation of persons or property wholly by rail or partly by rail or water. *Rev. Codes 1905, sec. 4324.*

The term *common carrier* whenever used in this article shall be construed to include telephone and telegraph companies and associations engaged in the receiving, transmitting and delivering of messages. *Same.*

The provisions of this article shall apply to all persons, firms and companies and to all associations of persons whether incorporated or otherwise that shall do business as common carriers upon any of the lines of railway operated by steam in this state the same as to railroad corporations herein mentioned. *Same, sec. 4325.*

¹ Comprising secs. 4324-4397 of Revised Codes 1905.

DEFINITIONS.

REVISED CODES 1905, SEC. 4325.

Railroad shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation, receiver, trustee, or other person used as a common carrier or operated as a railroad whether owned or operated under contract, agreement, lease or otherwise.

Railroad corporation shall be deemed and taken to mean all corporations, companies or individuals now owning or operating or using or which may hereafter own, operate or use as a common carrier any railroad operated by steam in whole or in part in this state, or leases cars by whatever name known for the purpose of transportation.

Transportation shall include all the instrumentalities of shipment or carriage.

OHIO

This chapter¹ shall apply to the transportation of passengers and property between points within this state, to the receiving, switching, delivering, storing and hauling of such property, and to all charges connected therewith, including icing charges and mileage charges, to all railroad companies, sleeping car companies, equipment companies, express companies, car companies, freight and freight line companies, to all associations of persons, whether incorporated or otherwise, which do business as common carriers, upon or over a line of railroad within this state, and to a common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water or wholly by water. In addition thereto the provisions of this act shall apply to the regulation of any and all other duties, services, practices and charges of the railroad company, incident to the shipping and receiving of freight, which are proper subjects of regulation, excepting only, that they shall not apply to the regulations of commerce with foreign nations, and among the several states, and with the Indian tribes. *Code 1910, sec. 502, as amended by laws 1911, no. 325, sec. 1.*

Commission shall have the power of supervision and control of express companies, water transportation companies and interurban railroad companies to the same extent as railroads. *Code 1910, sec. 501, as amended by laws 1911, no. 325, sec. 1.*

The jurisdiction, supervision, powers and duties of the public service commission shall extend to every public utility and railroad. . . . *Laws 1911, no. 325, sec. 6.*

Commission is vested with power and jurisdiction to supervise and regulate *public utilities* and *railroads* as herein defined and provided. *Same, sec. 5.*

¹ Chapter 1 of code 1910, on railroad commission, embracing sections 487-614.

Companies formed to acquire property or to transact business which would be subjected to the provisions of this act, and companies owning or possessing franchises for any of the purposes contemplated by this act, shall be deemed and held to be subject to the provisions of this act, although no property may have been acquired, business transacted or franchises exercised. *Same, sec. 77.*

DEFINITIONS.

CODE 1910, SEC. 501, AS AMENDED BY LAWS 1911, NO. 325, SEC. 1.

Railroad shall include all corporations, companies, individuals, associations of individuals, their lessees, trustees, or receivers appointed by a court, which owns, operates, manages or controls a railroad or part thereof as a common carrier in this state, or which owns, operates, manages or controls any cars or other equipment used thereon, or which owns, operates, manages or controls any bridges, terminals, union depots, side tracks, docks, wharves or storage elevators used in connection therewith, whether owned by such railroad or otherwise. Such term *railroad* shall mean and embrace express companies, water transportation companies and interurban railroad companies and all duties required of and penalties imposed upon a railroad or an officer or agent thereof, insofar as they are applicable, shall be required of and imposed upon express companies, water transportation companies and interurban railroad companies, their officers and agents.

LAWS 1911, NO. 325, SECS. 3 AND 4.

Any person or persons, firm or firms, co-partnership or voluntary association, joint stock association, company or corporation, wherever organized or incorporated:

When engaged in the business of transmitting to, from, through or in this state, telephonic messages, is a telephone company and as such is declared to be a *common carrier*.

When engaged in the business of supplying electricity for light, heat or power purposes to consumers within this state, is an *electric light company*.

When engaged in the business of supplying artificial gas for lighting, power or heating purposes to consumers within this state, is a *gas company*.

When engaged in the business of supplying water, steam or air through pipes or tubing to consumers within this state for heating or cooling purposes, is a *heating or cooling company*.

When engaged in the business of supplying messengers for any purpose, is a *messenger company*.

When engaged in the business of supplying natural gas for lighting, heating or power purposes to consumers within this state, is a *natural gas company*.

When engaged in the business of transporting natural gas or oil through pipes or tubing, either wholly or partly within this state, is a *pipe line company*.

When engaged in the business of operating a railroad, wholly or

partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of municipalities, using electricity or other motive power than animal or steam power for the transportation of passengers, packages, express matter, United States mail, baggage and freight, is an *interurban railroad company*, and included in the term *railroad* as used in section 501 of the general code.

Railroad when used in this act, includes all railroads, interurban railroad companies, express companies, freight line companies, sleeping car companies, equipment companies, car companies, water transportation companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state.

When engaged in the business of signalling or calling by an electrical apparatus, or in a similar manner, for any purpose, is a *signalling company*.

When engaged in the business of operating, as a common carrier, a railroad, wholly or partly within this state, with one or more tracks upon, along, above or below any public road, street, alley, way or ground, within any municipal corporation, operated by any motive power other than steam, and not a part of an interurban railroad, whether such railroad be termed street, inclined plane, elevated or underground railroad, is a *street railroad company*.

When engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad is a *suburban railroad company*.

When engaged in the business of transmitting to, from, through or in this state, telegraphic messages, is a *telegraph company*.

When engaged in the business of supplying water through pipes or tubing, or in a similar manner to consumers within this state, is a *water works company*.

Public utility shall mean and include every corporation, company, co-partnership, person or association, their lessees, trustees or receivers, defined in the next preceding section, except such public utilities as operate their utilities not for profit, and except such public utilities as are, or may hereafter be, owned or operated by any municipality, and except such utilities as are defined as *railroads* in sections 501 and 502 of the general code and these terms shall apply in defining *public utilities* and *railroads* wherever used in chapter one, division two, title three, part first of the general code and the acts amendatory or supplementary thereto or in this act.

OKLAHOMA

Commission has jurisdiction over transportation, transmission and gas, electric light, heat and power companies.

DEFINITIONS.

CONSTITUTION, ART. IX.

Bond shall mean all certificates or written evidences of indebtedness issued by any corporation and secured by mortgages or trust deed. *Sec. 34.*

Company shall include associations and joint stock companies having any power or privileges not possessed by individuals, and include all corporations except municipal corporations and public institutions owned or controlled by the state. *Sec. 18(b).*

Frank shall mean any writing or token issued by or under the authority of a transmission company, entitling the holder to any service from such company free of charge. *Sec. 34.*

Freight shall be construed to mean any property transported or received for transportation, by any transportation company. *Same.*

Person shall include individuals, partnerships and corporations, in the singular as well as the plural number. *Same.*

Public service corporation shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise the right of eminent domain, or to use or occupy any right of way, street, alley or public highway, whether along, over, or under the same, in a manner not permitted to the general public. *Same.*

Transportation company shall include any company, corporation, trustee, receiver or any other person owning, leasing, or operating for hire, a railroad, street railway, canal, steam boat line, and also any freight car company, car association, express company, sleeping car company, car corporation or company, trustee or person in any way engaged in such business as a common carrier over a route acquired in whole or in part under the right of eminent domain, or under any grant from the government of the United States. *Same.*

Transmission company shall include any company, receiver or other person, owning, leasing or operating for hire any telegraph or telephone line. *Same.*

Rate shall be construed to mean rate of charge for any service rendered, or to be rendered. *Same.*

Rate, charge, and regulations, shall include joint rates, joint charges, and joint regulations, respectively. *Same.*

OREGON

The provisions of this act shall apply to the transportation of passengers and property, and to the receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration or icing, and handling of such property, and to all charges connected therewith; and shall apply to all railroad companies, union depot companies, terminal companies, car companies, oil companies, tank line companies, sleeping car companies, freight and freight line companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon or over any line of railroad within the state, and to any common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water. *Gen. Laws 1907, ch. 53, sec. 11.*

This act shall not apply to the transportation of passengers being carried solely within the limits of cities by street and other railroads, and shall not apply to logging or other private railroads not doing business as common carriers. *Same.*

Commission shall have the power of supervision and control of union depot, terminal and express companies to the same extent as railroads. *Same.*

Commission is vested with power and jurisdiction to supervise and regulate every public utility in this state. *Gen. Laws 1911, ch. 279, sec. 6.*

No plant owned or operated by a municipality shall be deemed a public utility under or for the purposes of this act. *Same, sec. 1.*

DEFINITIONS.

GEN. LAWS 1907, CH. 53, SEC. 11.

Railroad shall mean and embrace all corporations, companies, individuals associations of individuals, their lessees, trustees, or receivers (appointed by any court whatsoever), that now, or may hereafter, own, operate by steam, electric or other motive power, manage or control, any railroad or interurban railroad or part of a railroad or interurban railroad as a common carrier in this state, or cars or other equipment used thereon, or bridges, terminals, or side tracks, used in connection therewith, whether owned or operated under a contract agreement or lease or otherwise.

Railroad shall also mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees, or receivers (appointed by any court whatsoever), engaged in the ownership, management or control of union depots or terminals in this state (which corporations, companies, individuals and associations are hereby declared to be common carriers), or the transportation of property within this state by express.

Rate, fare, charge, and joint rate as used herein shall be taken to mean and embrace an entire schedule of rates, fares, charges or joint rates as well as particular rates and groups of rates.

Service shall be taken in its broadest and most inclusive sense and to include equipment and facilities.

GEN. LAWS 1911, CH. 279.

Public utility shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever), that now or hereafter may own, operate, manage or control any plant or equipment in this state for the conveyance of telegraph or telephone messages, with or without wires, or for the transportation of persons or property by street railroad as common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, and any and all whether either directly or indirectly to or for the public, and whether said plant or equipment or part thereof is wholly within any town or city or not. *Sec. 1.*

Council shall mean and embrace the common council, city council, commission, or any other governing body of any town, city or other municipal government wherein the property of the public utility or any part thereof is located. *Sec. 2.*

Municipality shall mean any town, city or other municipal government wherein property of the public utility or any part thereof is located. *Sec. 3.*

Service is used in this act in its broadest and most inclusive sense, and includes equipment and facilities. *Sec. 4.*

PENNSYLVANIA

Commission has jurisdiction over common carriers.

DEFINITIONS.

LAWS 1907, NO. 250, SEC. 6.

Common carrier shall apply to all corporations, or any person or persons, within the state, engaged in the transportation of freight or passengers by means of railroads or by water, or partly by railroad and partly by water, including electric railway companies, street railway companies, elevated railway companies, underground, elevated, or subway passenger railway companies, bridges and ferries, when used in connection with the transportation of freight or passengers upon any such railroad or railway; pipe-line companies engaged in the transportation of oil, either by means of pipe-lines, or by water, or partly by means of pipe-lines and partly by means of railroads or railways, or partly by means of pipe-lines and partly by means of water; sleeping- and drawing-room car companies engaged in transporting passengers upon any such railroad; express companies engaged in transporting property upon any such railroad, electric railway, street railway, or by water; and telegraph or telephone companies.

RHODE ISLAND

This act shall apply to the public utilities herein described and to the commission hereby created, and to the public utility corporations and person herein mentioned and referred to. *Acts 1912, ch. 795, sec. 1.*

DEFINITIONS.

ACTS 1912, CH. 795, SEC. 2.

Common carrier shall mean and apply to and embrace all railroad corporations, street railway corporations, express companies, freight companies, freight line companies, dining-car companies, steamboat, power-boat and ferry companies, and all persons and associations of persons whether incorporated or not, and their lessees, trustees and receivers, appointed by any court whatsoever, operating any agency for public use in the conveyance of persons or property within this state by land or by water, or both.

Corporation includes a corporation, company, association, and joint stock company or association.

Person includes an individual, corporation, and a firm or copartnership.

Plant or equipment shall mean and apply to and embrace all the real estate, easements, buildings, machinery, apparatus, devices, rolling stock, and tangible property of whatsoever kind and nature, and wherever located, used, controlled, operated, leased or owned by a public utility in the conduct of the business thereof.

Public utility shall mean and embrace, and apply to every corporation, company, person, association of persons, their lessees, trustees, or receivers appointed by any court whatsoever, that now or hereafter may own, lease, operate, manage or control any railroad or street railway within this state, or that now or hereafter may operate or do business as a common carrier within this state; and to every corporation, company, person, association of persons, their lessees, trustees or receivers appointed by any court whatsoever, that now or hereafter may own, lease, operate, manage or control any plant or equipment, or any part of any plant or equipment, within this state for the conveyance of telegraph or telephone messages, or for the production, transmission, delivery, or furnishing of gas, electricity, water, light, heat or power, either directly or indirectly to or for the public; provided, that this act shall not be construed to apply to any public water works and water service owned and furnished by any city or town.

Railroad includes every railroad other than a street railway, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations, wharves and terminal facilities of every kind, used, operated, controlled, leased or owned by or in connection with any such railroad.

Service is used in this act in its broadest and most inclusive sense.

Street railway includes every railway by whatsoever power operated or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place in any city or town, and including all switches, spurs, tracks, rights of trackage, subways, tunnels, stations, terminals, and terminal facilities of every kind, used, operated, controlled or owned, by or in connection with, any such street railway.

SOUTH CAROLINA

Railroad commission has jurisdiction over all transporting and transmitting corporations. *Const., art. ix, sec. 14.*

By Gen. Stats. 1902, sec. 2067, railroad commission has jurisdiction over railroads and railways, express and telegraph lines.

By Acts 1904, no. 281, railroad commission has jurisdiction over telephone companies.

Public service commission has jurisdiction in all cities of the state over maximum rates and charges for the supply of water, gas or electricity furnished by any person, firm or corporation to such city and the inhabitants thereof. *Acts 1910, no. 286, sec. 1.*

The provisions of this act shall not apply to the cities of Charleston, Marion, Spartanburg, Sumter and Union or the town of Conway. *Same.*

SOUTH DAKOTA

Commission has jurisdiction over all railroads and railway companies, express companies, car companies, sleeping car companies, freight or freight line companies and over any common carrier or

carriers engaged in the transportation of passengers or property by railroad (street railroads excepted). *Rev. Pol. Code 1903, sec. 431.*

Commission has jurisdiction over express companies. *Laws 1911, ch. 207.*

The term *telephone company* as used in this act shall mean and embrace all corporations (except municipal), associations and individuals, their trustees, lessees and receivers, that now or hereafter may own, operate, manage or control any telephone line, system or exchange, or any part of any telephone line, system or exchange in this state; and all such telephone companies are hereby declared to be common carriers, and all laws, so far as applicable, now in force or hereafter enacted regulating common carriers, shall apply with equal force and effect to all such telephone companies. *Sess. Laws 1909, ch. 289, sec. 1.*

The provisions of this article shall apply to the transportation of passengers, property and messages by telephone, and to receiving, delivering, storage and handling of property wholly within this state, and shall apply to all railroads, corporations and railway companies, express companies, car companies, sleeping car companies, freight or freight line companies, telephone companies and to any common carrier or carriers engaged in this state in the transportation of passengers, property or messages by telephone, and shall also be held to apply to shipments of property made from any point within the state to any point within the state, over lines of telephone, railway or express, wholly within the state, and the provisions of this article shall apply to all persons, firms and companies and to all associations of persons, whether incorporated or otherwise, that shall do business as common carrier upon or over any railway, express or telephone line in this state (street railroads excepted), the same as to common carriers herein mentioned. *Sess. Laws 1911, ch. 207, sec. 1.*

DEFINITIONS.

LAWS 1911, CH. 207.

Common carrier shall include all bridges and ferries used or occupied in connection with any railroad and also the road, and all lines and facilities of any and every kind, character or description in use by any corporation, receiver, trustee or other person operating a railroad, express company, or telephone company, whether owned or operated under contract, agreement, lease or otherwise. *Sec. 1.*

Common carrier shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate any railroad, express company or telephone company, in whole or in part, in this state. *Same.*

Transportation shall include all instrumentalities of shipment or carriage. *Same.*

Transportation shall be held to include the transmission of messages by telephone. *Sec. 52.*

Traffic shall be held to include the transportation of passengers, freight cars, express freight, and all transmission of messages by telephone. *Sec. 53.*

TENNESSEE

The provisions of this act shall be construed to apply to and affect only the transportation of passengers, freight and cars between points within this state and this act shall not apply to street railways nor to suburban or belt lines of railways in or near cities or towns. *Laws 1897, ch. 10, sec. 3.*

TEXAS

Provisions of this chapter shall be construed to apply to and affect only the transportation of passengers, freight and cars between points within this state; and this chapter shall not apply to street railways nor suburban nor belt lines of railways in or near cities and towns. *Sayles' Civil Stats. 1897, art. 4580.*

Commission shall have the same power to make and prescribe rules and regulations for the government and control of express companies as is or may be conferred upon said commission for the regulation of railroads. *Same, art. 4582.*

UTAH

No commission up to 1913.

VERMONT

Commission shall have general supervision of all railroads within the state whether operated by steam, electricity or any other power and of the corporations, receivers, trustees, directors, lessees and other persons owning or operating the same so far as may be necessary to enable it to perform the duties and exercise the powers conferred upon it. *Pub. Stats. 1906, sec. 4602.*

Commission is authorized and empowered to exercise the same authority of control and regulation over and in regard to joint stock companies or corporations doing an express, parlor car or sleeping car business and other business within this state as is granted it by this chapter in respect to railroad companies. *Same, sec. 4537.*

Commission shall have general supervision of all companies engaged in the manufacture, distribution and sale of gas or electricity for lighting or heating, of all express companies and of all companies owning or operating telegraph or telephone lines, stations or exchanges

within this state and of all plants, lines, exchanges and equipment of such companies used in or about the business carried on by them in this state as covered and included in this section, and all companies, receivers, trustees, directors or lessees owning or operating the same, so far as may be necessary to enable it to perform the duties and exercise the powers conferred upon it by this act; and shall have supervision of companies engaged in the manufacture, sale and distribution of power so far as relates to their use or occupancy of the public highways and so far as relates to furnishing power for public use. *Laws 1908, no. 116, sec. 3.*

DEFINITIONS.

PUB. STATS, 1906, SEC. 4531.

Transportation shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage and handling of property transported.

LAWS 1908, NO. 116, SEC. 2.

Company or companies shall mean and include individuals, partnerships, associations, corporations and municipalities, owning or conducting any public service business or property used in connection therewith and covered by the provisions of this act.

VIRGINIA

Commission has jurisdiction over transportation and transmission companies, turnpike and other internal improvement companies and gas, pipe line, electric light, heat, power and water supply companies. *Pollard's Code 1904, sec. 1294 a(1).*

DEFINITIONS.

CONSTITUTION, SEC. 153.

Bond shall mean all certificates, or written evidences, of indebtedness issued by any corporation and secured by mortgage or trust deed.

Corporation or company shall include all trusts, associations and joint stock companies having any powers or privileges not possessed by individuals or unlimited partnerships, and exclude all municipal corporations and public institutions owned or controlled by the state.

Freight shall be construed to mean any property transported, or received for transportation, by any transportation company.

Public service corporation shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise the right of eminent domain, or to use or occupy any street, alley or public highway, whether along, over, or under the same, in a manner not permitted to the general public.

Rate shall be construed to mean "rate of charge for any service rendered or

to be rendered"; the terms *rate*, *charge*, and *regulation*, shall include joint rates, joint charges, and joint regulations, respectively.

Transmission company shall include any company owning, leasing or operating for hire, any telegraph or telephone line.

Transportation company shall include any company, trustee, or other person owning, leasing or operating for hire a railroad, street railway, canal, steamboat, or steamship line, and also any freight, car company, car association, or car trust, express company, or company, trustee or person in any way engaged in business as a common carrier over a route acquired in whole or in part under the right of eminent domain.

POLLARD'S CODE 1904, SEC. 1294a.

Public service corporation or *public service corporations* shall include transportation and transmission companies, turnpike, and other internal improvement companies, and gas, pipe line, electric light, heat, power, and water supply companies, and all persons, firms, partnerships, associations, or corporations authorized to exercise the right of eminent domain, or to use or occupy any street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public, and shall exclude all municipal corporations and public institutions owned or controlled by the state.

Railroad, or *railroads*, shall include all railroad or railway lines, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated; and the words *railroad company*, or *railroad companies*, shall include any company, trustee, or other persons owning, leasing or operating a railroad or railroads, railway or railways, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated.

Transportation company or *transportation companies* shall include any company, trustee, or other person owning, leasing, or operating, for hire, a railroad street railway, canal, steamboat, or steamship line; and also any freight car company, car association, car service association, or car trust, express company, or company, trustee, or person in any way engaged in business as a common carrier, over a route acquired in whole or in part under the right of eminent domain.

Transmission company or *transmission companies* shall include any company owning, leasing, or operating for hire any telegraph or telephone line.

POLLARD'S CODE 1904, SEC. 1313A(1).

Corporation or *company* shall include all corporations chartered by the acts of the general assembly of Virginia, or under the general incorporation laws of this state, or doing business therein, and all trusts, associations, and joint-stock companies having any powers or privileges not possessed by individuals or unlimited partnerships, and shall exclude all municipal corporations and public institutions owned or controlled by the state.

Person as used in this act shall include individuals, partnerships, and corporations in the singular as well as in the plural number.

Public service corporation shall include all transportation and transmission companies, all gas, electric light, heat and power companies and all persons authorized to exercise the right of eminent domain, or to use or occupy any street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public.

Transmission company shall include any company owning, leasing or operating for hire, any telegraph or telephone line.

Transportation company shall include any company, trustee, or other person owning, leasing, or operating for hire a railroad, street railway, canal, steamboat, or steamship line, also any freight-car company, car association or car trust, express company, or company, trustee, or person in any way engaged in business as a common carrier over a route acquired, in whole or in part, under the right of eminent domain.

WASHINGTON

Commission has jurisdiction over public service companies, including common carriers, gas, electric, water, telephone and telegraph companies and wharfingers and warehousemen. *Laws 1911, ch. 117, sec. 8.*

DEFINITIONS.

LAWS 1911, CH. 117, SEC. 8.

Common carrier includes all railroads, railroad companies, street railroads, street railroad companies, steamboat companies, express companies, sleeping car companies, freight companies, freight line companies, and every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, operating, managing or controlling any such agency for public use in the conveyance of persons or property for hire within this state.

Corporation includes a corporation, company, association or joint stock association.

Dock or wharf includes any and all structures at which any steamboat, vessel or other water craft lands for the purpose of receiving or discharging freight from or for the public, together with any building or warehouse used for storing such freight for the public for hire.

Electrical company includes any corporation, company, association, joint stock, association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state.

Electric plant includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

Express company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, who shall engage in or transact the business of carrying any freight, merchandise or property for hire on the line of any common carrier operated in this state.

Gas company includes every corporation, company, association, joint stock

association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

Gas plant includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas (natural or manufactured) for light, heat or power.

Person includes an individual, a firm or copartnership.

Public service company includes every common carrier, gas company, electrical company, water company, telephone company, telegraph company, wharfinger and warehouseman as such terms are defined in this section.

Railroad includes every railroad, other than a street railroad, by whatsoever power operated for public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad.

Railroad company includes every corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any railroad or any cars or other equipment used thereon or in connection therewith within this state.

Service is used in this act in its broadest and most inclusive sense.

Steamboat company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, leasing, operating or managing any vessel over and upon the waters of this state.

Street railroad includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any one city or town, and includes all equipment, switches, spurs, tracks, bridges, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such street railroad, within this state.

Street railroad company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any street railroad or any cars or other equipment used thereon or in connection therewith within this state.

Telegraph company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

Telegraph line includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

Telephone company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers ap-

pointed by any court whatsoever, and every city or town owning, operating or managing any telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

Telephone line includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

Transportation of persons includes any service in connection with the receiving, carriage and delivery of the person transported and his baggage and all facilities used or necessary to be used in connection with the safety, comfort and convenience of the person transported.

Transportation of property includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported, and the transmission of credit.

Vessel includes every species of water craft, by whatsoever power operated, for the public use in the conveyance of persons or property for hire and upon the waters within this state (excepting row boats and sailing boats under 20 gross tons burden, open steam launches of five tons gross and under, and vessels under five gross tons propelled by gas, fluid, naphtha or electric motors).

Warehouse includes any building or structure in which freight is received for storage from the public for hire, intended for shipment or discharged by any water craft.

Water company includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating or managing any water system for hire within this state.

Water system includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structure or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

Wharfinger or warehouseman includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, operating or managing any dock, wharf or structure where steamboats, vessels or other water craft land for the purpose of discharging freight for the public, and where such freight is received on such dock, wharf or structure for the public for hire within this state.

WEST VIRGINIA

No commission up to 1913.

WISCONSIN

Commission has jurisdiction over railroads and public utilities as defined.

The provisions of this act shall apply to the receiving, transmitting and delivering of messages by telegraph, and to all charges con-

nected therewith, and to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith, and shall apply to all railroad corporations, express companies, telegraph companies, car companies, sleeping car companies, freight and freight line companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon or over any line of railroad within this state, and to any common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water. *Laws 1905, ch. 362, sec. 2, as amended by Laws 1907, ch. 582.*

DEFINITIONS.

LAWS 1905, CH. 362, SEC. 2, AS AMENDED BY LAWS 1907, CH. 582 (RAILROAD COMMISSION LAW).

Railroad shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever) that now, or may hereafter, own, operate, manage or control any railroad or part of a railroad as a common carrier in this state, or cars, or other equipment used thereon, or bridges, terminals, or side tracks, used in connection therewith, whether owned by such railroad or otherwise, and also all street and interurban railway companies.

Railroad shall also mean and embrace express companies, and telegraph companies, and all duties required of and penalties imposed upon any railroad or any officer or agent thereof shall, in so far as the same are applicable, be required of and imposed upon express companies and telegraph companies and their officers and agents, and the commission shall have the power of supervision and control of express companies and telegraph companies to the same extent as railroads.

LAWS 1907, CH. 499, SEC. 1797 M-1, AS AMENDED BY LAWS 1911, CH. 48 (PUBLIC UTILITY LAW).

Indeterminate permit shall mean and embrace every grant, directly or indirectly from the state, to any corporation, company, individual, association of individuals, their lessees, trustees or receivers appointed by any court whatsoever, of power, right or privilege to own, operate, manage or control any plant or equipment within this state for the production, transmission, delivery or furnishing of heat, light, water or power, either directly or indirectly, to or for the public, which shall continue in force until such time as the municipality shall exercise its option to purchase as provided in this act or until it shall be otherwise terminated according to law.

Municipal council shall mean and embrace the common council, the board of aldermen, the board of trustees, the town or village board, or any other governing body of any town, village or city wherein the property of the public utility or any part thereof is located.

Municipality shall mean any town, village or city wherein property of a public utility or any part thereof is located.

Public utility shall mean and embrace every corporation, company, individual, association of individuals, their lessees, trustees, or receivers appointed

by any court whatsoever, and every town, village, or city that now or hereafter may own, operate, manage, or control any plant or equipment or any part of a plant or equipment within the state, for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, light, water, or power either directly or indirectly to or for the public, or that now or hereafter may own, operate, manage, or control any toll bridge wholly within the state.

Service is used in this act in its broadest and most inclusive sense.

LAWS 1911, CH. 593, SEC. 1753-1 (STOCK AND BOND LAW).

Capital account shall mean the capital account prescribed by the commission and required to be kept by every public service corporation as provided by law.

Net income or revenue shall mean the money available for dividends and surplus according to the accounts prescribed by the commission and required to be kept by every public service corporation.

Public service corporation shall mean and embrace every railroad, street railway, telegraph, telephone, express, freight line, sleeping car, light, heat, water, and power corporation, and all other corporations, excepting towns, villages, and cities engaged in the business of supplying the public, directly or indirectly, with light, heat, power, or water, or in transmitting telegraph or telephone messages, or in transporting passengers, freight, or express.

WYOMING

No commission up to 1913.

CHAPTER I.

Organization of Commissions

SCOPE NOTE

This chapter includes the important requirements of commission organization. Minor details are usually determined by the commissions themselves and are to be found in rules, regulations and orders promulgated by them. Provisions dealing with the organization of boards and offices affiliated with commissions, even when under their direct supervision, have been excluded. For provisions incidentally involving questions of personnel and organization, see ch. ix, on accounts, ch. vii, on service, ch. xiv, on commission procedure and practice, and ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. NAME AND CONSTITUTION OF COMMISSION.

Name of Commission, Location of Principal Office, Number, Manner of Selection, Terms of Office, Qualification, Salary and Bond of Commissioners.

UNITED STATES Interstate Commerce Commission, Washington, D. C. Seven. Appointed by president by and with consent of senate for seven years; one each year. Not more than four commissioners from same political party. \$10,000. *Act to Regulate Commerce, secs. 11, 19, 24.*

ALABAMA Railroad Commission of Alabama, Montgomery. President and two associates. Elected on the first Tuesday after first Monday in November for four years, president every four years, two associates at once two years later. No two commissioners from same congressional district; qualified electors of Alabama. President, \$3,500; associates, \$3,000 each. *Code 1907, secs. 5632, 5633, 5636, 5637, 5640, 5642.*

ARIZONA Corporation Commission; Phoenix. Three. Elected for six years; one every two years co-terminously with governor. Chairman elected by commissioners. Qualified electors of Arizona. \$3,000. *Const., art. xv, secs. 1, 18. Sess. laws 1912, ch. 90, secs. 3(a), 7, 8(a), 10.*

ARKANSAS Railroad Commission of Arkansas, Little Rock. Chairman and two commissioners. Elected at general election for two years and until their successors are elected and qualified, one from first and sixth, one from second and third, one from fourth and fifth congressional districts. Chairman elected by members of commission at time of organization. Twenty-five years of age, resident citizens of Arkansas, and qualified voters. \$2,500. *Kirby's Digest 1904, secs. 6788, 6789, 6793.*

CALIFORNIA Railroad Commission of the State of California, San Francisco. President and four commissioners. Appointed by governor from state at large for six years, one commissioner first and then two commissioners each at the two successive biennial periods. President elected by commissioners. Qualified electors of California. \$6,000. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 3(a), 7, 8(a), 8(b), 10(a).*

COLORADO State Railroad Commission of Colorado, Denver. President, secretary, and one commissioner. Appointed by governor by and with consent of senate for six years;

one every two years. President and secretary elected by commissioners for two years. \$4,000. *Laws 1910, sp. sess., ch. 5, secs. 11, 18.*

CONNECTICUT Public Utilities Commission, Hartford. Three. Appointed by general assembly upon nomination by governor
7 for six years and until his successor is duly appointed and qualified; one every two years. Electors of Connecticut. \$5,000. *Pub. Acts 1911, ch. 128, secs. 2, 4, 6.*

FLORIDA Railroad Commissioners of the State of Florida, Tallahassee. Three. Elected for four years, two at general
• election held at time and places of voting for members of legislature, one two years later. \$2,500. *Gen. Stats. 1906, secs. 2882, 2883, 2887 (as amended 1907).*

GEORGIA Railroad Commission of Georgia, Atlanta. Chairman and four commissioners. Elected for six years; one
• commissioner first and two each at the two successive biennial periods. Chairman elected by members for two years. Thirty years of age and qualified elector of Georgia; one experienced in law and one experienced in railroad business. Chairman, \$4,000; commissioners, \$2,500 each. *Code 1911, secs. 2616, 2620, 2621, 2622, 2625. Acts 1878-79, no. 269, sec. 1.*

ILLINOIS Railroad and Warehouse Commission, Springfield. Chairman and two commissioners. Appointed by governor
10 by and with advice and consent of senate for two years and until their successors are appointed and qualified. Chairman, \$6,000; commissioners, \$4,000 each. Bond of \$20,000. *Revisal 1909, ch. 114, secs. 167, 169, 170.*

INDIANA Railroad Commission of Indiana, Indianapolis. Chairman and two commissioners. Appointed by governor for
11 four years, one each year for each of three years, one year intervening between each succession of three appointments. Chairman selected by commissioners. Resident citizens of Indiana; qualified voters; no more than two commissioners from same political party. \$4,000. Bond of \$10,000. *Acts 1907, ch. 241, secs. 1, 1(a), 1(d), 1(e), 2(a).*

IOWA Board of Railroad Commissioners, Des Moines. Chairman and two commissioners. Elected for three years in
12 same manner as other state officers. Chairman elected by commissioners immediately after the new member has qualified. Electors. \$2,200. *Code 1897, secs. 2111, 2121.*

KANSAS Public Utilities Commission, Topeka. Three. Appointed by governor by and with advice and consent of senate
13 for three years and until their successors shall have been qualified; one each year. Qualified electors of Kansas; one a practical, experienced business man and one experienced in manage-

ment or operation of a common carrier or public utility; not more than two from same political party. \$4,000. Bond of \$10,000. *Gen. Stats. 1909, sec. 7185. Laws 1911, ch. 238, secs. 1, 5, 8.*

KENTUCKY

Railroad Commission, Frankfort. Chairman and two commissioners. Elected at same time as governor for four years and until his successor is elected and qualified; one from each superior court district. Thirty years of age; resident of district from which chosen one year next preceding election; citizen of Kentucky two years. Chairman, \$3,600; commissioners, \$3,000 each. *Const., sec. 209. Carroll's Stats. 1909, secs. 821-823.*

LOUISIANA

Railroad Commission of Louisiana, Baton Rouge. Chairman and two commissioners. Elected for six years, one from each of three railway commission districts; one every two years. Chairman elected by commissioners. \$3,000. *Const., arts. 283, 287, 289.*

MAINE

Board of Railroad Commissioners, Augusta. Chairman and two commissioners. Appointed by governor with advice and consent of council for three years. Chairman appointed and commissioned by governor with advice and consent of council. One, chairman, learned in law; one a civil engineer, experienced in construction of railroads; one experienced in management and operation of railroads. Chairman, \$2,500; commissioners, \$2,000 each. *Rev. Stats. 1903, ch. 51, sec. 48 (as amended by Pub. Laws 1909, ch. 141); ch. 116, sec. 1.*

MARYLAND

Public Service Commission, Baltimore. Chairman and two commissioners. Appointed by governor for six years and until his successor shall qualify, each commissioner being eligible for reappointment in discretion of governor; one every two years. Chairman designated by governor. Twenty-five years of age; resident of Maryland for a period of at least five years next preceding his appointment and qualification; a qualified voter in Maryland. Chairman, \$3,000, payable by state, and in addition \$3,000 payable by Baltimore; each commissioner, \$3,000, payable by state, and in addition \$2,000 payable by Baltimore. *Laws 1910, ch. 180, secs. 2, 4.*

MASSACHUSETTS

Board of Gas and Electric Light Commissioners, Boston. Chairman and two commissioners. Appointed by governor with advice and consent of council for three years; one each year. Chairman designated by governor. Citizens of Massachusetts. Chairman, \$5,000; each commissioner, \$4,500. *Rev. Laws 1902, ch. 121, sec. 1 as amended by Acts 1907, ch. 316. Acts 1910, ch. 539, sec. 1.*

Board of Railroad Commissioners, Boston. Chairman and two commissioners. Appointed by governor with advice and consent of council for three years; one each year. Chairman,

\$6,000; each commissioner, \$5,000. *Acts 1906, ch. 417, sec. 1; ch. 463, pt. 1, secs. 1, 2.*

- Massachusetts Highway Commission, Boston. Chairman and two commissioners. Appointed by governor with advice and consent of council for three years; one each year. Chairman designated by governor. Chairman, \$3,500, and each commissioner \$2,500; in addition \$1,500 each for supervision of utilities engaged in transmission of intelligence by electricity. *Rev. Laws 1902, ch. 47, sec. 1. Acts 1906, ch. 433, sec. 1.*

- The State Board of Health, Boston, was authorized in 1909 to hear and determine complaints relative to the service or charges of water companies and to make recommendations to such companies concerning the reduction, modification or continuation of charges complained of or concerning improvements in the quality of service or extensions thereof. As its jurisdiction over water utilities is incidental to its main purposes the State Board of Health has not been treated herein as a public utility commission. *Acts 1909, ch. 319, sec. 1.*

MICHIGAN

- Michigan Railroad Commission, Lansing. Chairman and two commissioners. Appointed by governor and confirmed by senate for six years and until successor is appointed and qualified; one every two years. Chairman elected by members in each odd numbered year for two years and until his successor is elected. One an attorney having knowledge of and experienced in law relating to common carriers, the other two having knowledge of traffic and transportation matters; no more than two from same political party. \$3,000. *Pub. Acts 1909, no. 300, secs. 1, 2(a), 2(e), 2(f), 2(j), 2(k).*

MINNESOTA

- Railroad and Warehouse Commission, St. Paul. Three. Elected at general election for six years and until their successors qualify; one every two years. \$4,500. Bond of \$20,000. *Rev. Laws 1905, secs. 1953 and 1956 (as amended by Laws 1911, ch. 140), 1961.*

MISSISSIPPI

- Mississippi Railroad Commission, Jackson. Three. Elected at general election in same manner as other state officers for four years. One from each supreme court district; same qualifications as are prescribed for secretary of state. \$2,000.¹ *Code 1906, secs. 4826, 4828, 4830.*

MISSOURI

- Board of Railroad and Warehouse Commissioners, Jefferson City. Three. Elected for six years and until his successor is elected and qualified; one every two years. \$3,000. Bond of \$20,000. *Rev. Stats. 1909, secs. 3250, 3261, 3262.*

¹ In case a commissioner shall fail to attend any meeting or session of commission appointed for transaction of business he shall be subject to a pro rata deduction from his salary, and clerk of commission, or in his absence the commissioner or commissioners present, shall certify to auditor of public accounts the number of days such commissioner was absent at each meeting or session and auditor shall deduct twice the number of days so certified from time for which salary of such commissioner may be estimated unless such commissioner shall take and file an affidavit in auditor's office that his absence was occasioned by sickness of himself or member of his family or by the prevalence of an epidemic or contagious disease or by means not within his control. *Code 1906, sec. 4483.*

MONTANA Board of Railroad Commissioners of the State of Montana, Helena. Chairman and two commissioners. Elected at general election for six years and until their successors are elected and qualified; one every two years. Chairman elected by members. Qualified electors of Montana. \$4,000. Bond of \$25,000. *Rev. Codes 1907, secs. 4363-4365, 4367, 4368.*

NEBRASKA Nebraska State Railway Commission, Lincoln. Chairman and two commissioners. Elected at general election for six years; one every two years. Chairman elected by members. Thirty years of age; resident citizens of Nebraska; qualified voters. \$3,000. *Cobbey's Annot. Stats. 1909, secs. 10649, 10650.*

NEVADA Railroad Commission of Nevada, Carson City. Chairman or chief commissioner, first associate commissioner and second associate commissioner. Appointed by railroad board or a majority of members thereof, consisting of governor, lieutenant-governor and attorney-general, for three years and until his successor is appointed and qualified; one each year. Chief commissioner, an attorney-at-law and well versed in law of railroad regulation; first associate, a practical railroad man familiar with operation of railroads in general; second associate commissioner, having a general knowledge of railroad fares, freights, tolls and charges; at no time more than two from same political party. Chief commissioner, \$5,000; first associate commissioner, \$4,000; second associate commissioner, \$2,500. *Stats. 1907, ch. 44, secs. 1, 1(a), 1(g), 1(j), 1(k) (all amended by Stats. 1911, ch. 193).*

Public Service Commission of Nevada. The Railroad Commission of Nevada is ex-officio the Public Service Commission of Nevada. The business of Public Service Commission shall be kept entirely separate from business of Railroad Commission. *Stats. 1911, ch. 162, sec. 2.*

NEW HAMPSHIRE Public Service Commission, Concord. Chairman, clerk, and one commissioner. Appointed by governor by and with consent of council for six years and until his successor is appointed and qualified; one every two years. Chairman appointed and commissioned as such. Chairman, \$3,500; clerk, \$3,200; commissioner, \$3,000. *Laws 1911, ch. 164, secs. 2(a), 2(e), 2(g).*

NEW JERSEY Board of Public Utility Commissioners, Trenton. President and two commissioners. Appointed by governor by and with advice and consent of senate for six years. President elected annually by members. Thirty years of age; citizens of New Jersey. \$7,500. *Laws 1911, ch. 195, secs. 1-5.*

NEW MEXICO State Corporation Commission, Santa Fe. Chairman¹ and two commissioners. Elected at general election for six years; one every two years. Chairman elected annually by commission. \$3,000. *Const., art. xi, sec. 1. Laws 1912, ch. 78, secs. 1, 2, 4, 5.*

NEW YORK Public Service Commission, First District, New York. Chairman and four commissioners. Appointed by governor by and with advice and consent of senate for five years; one each year. Chairman designated by governor. Resident of district for which he is a member. \$15,000. *Laws 1910, ch. 480, secs. 4, 10(1), 13.*

Public Service Commission, Second District, Albany.
34 Constituted in same manner as Public Service Commission, First District. *Same, secs. 4, 10(1).*

NORTH CAROLINA Corporation Commission,² Raleigh. Chairman and two commissioners. Elected in same manner as other state officers for six years and until their successors are elected and qualified; one at each general election. Chairman elected by commissioners. \$3,000, and in addition \$500 as state tax commissioners. *Pell's Revisal 1908, secs. 1054-1056, 1060, 2754.*

NORTH DAKOTA Board of Railroad Commissioners of the State of North Dakota, Bismarck. President and two commissioners. Elected at times and places of choosing members of legislative assembly for two years, and until their successors are elected and qualified. President elected by commissioners. Twenty-five years of age; citizens of United States; electors of North Dakota. \$2,000. Bond of \$10,000. *Const., sec. 82. Rev. Codes 1905, secs. 364, 366, 367. Laws 1909, ch. 216, sec. 4.*

OHIO Public Service Commission of Ohio, Columbus. Chairman and two commissioners. Appointed by governor with advice and consent of senate for six years and until his successor is appointed and qualified; one every two years. Chairman elected by commissioners for two years in each odd numbered year and until his successor is elected. One having a general knowledge of railroad law; each of the others having a general understanding of matters relating to railroad transportation; no more than two from same political party. \$6,000. *Code 1910, secs. 487, 488, 493, 498. Laws 1911, no. 325, secs. 2, 87.*

OKLAHOMA Corporation Commission, Oklahoma City. Chairman and two commissioners. Elected at general election for state officers for six years; one every two years. Chairman elected by members. Thirty years of age; resident of Oklahoma

¹ In absence, of the chairman commission may appoint any other member to preside. *Laws 1912, ch. 78 sec. 1.*

² Commission shall be a court of record. *Pell's Revisal 1908, sec. 1054.*

for over two years next preceding election; qualified voters. \$4,000. *Const., art. ix, secs. 15, 16, 18(a). Const., Schedule sec. 15.*

OREGON Railroad Commission of Oregon, Salem. Chairman and two commissioners. Elected in November as other congressional and state officers are elected for four years and until his successor is elected and qualified; two at the same time, one from first and one from second railroad commission district, and one from state at large two years later. Chairman elected by commission every two years. \$4,000. Bond of \$10,000. *Gen. Laws 1907, ch. 53, secs. 1, 2 (as amended by Gen. Laws 1911, ch. 279, sec. 79), 3, 7, 8.*

PENNSYLVANIA State Railroad Commission, Harrisburg. Chairman and two commissioners. Appointed by governor by and with advice and consent of senate for five years; one each of three years, two years intervening between each succession of three appointments. Chairman designated by governor. One shall be learned in law. \$8,000. *Laws 1907, no. 250, secs. 1, 5, 23.*

RHODE ISLAND Public Utilities Commission, Providence. Chairman and two commissioners. Appointed by governor by and with advice and consent of senate for six years; one every two years. Chairman elected by commissioners upon appointment of any commissioner for a new term or whenever vacancy occurs. Qualified electors of Rhode Island. Chairman, \$4,000; commissioners, \$3,500 each. *Acts 1912, ch. 795, secs. 3, 4, 7.*

SOUTH CAROLINA The Railroad Commission, Columbia. Three. Elected at general election for six years; one every two years. Twenty-five years of age. \$1,900. *Const., art ix, sec. 14. Gen. Stats. 1902, secs. 2063, 2064. Laws 1893, no. 304, sec. 1.*

Public Service Commission. Three. Appointed by governor by and with consent of senate for six years and until successors are appointed and qualified; one every two years. Reputable and competent citizens of South Carolina. Ten dollars a day when actually employed. Bond of \$1,000. *Laws 1910, no. 286, secs. 1, 4, 5.*

SOUTH DAKOTA Board of Railroad Commissioners of the State of South Dakota, with office at some central point to be selected by majority of commissioners (Pierre). Three. Elected at general election for six years and until his successor is elected and qualified, one from each of three railroad commissioner districts; one every second year. Twenty-five years of age; a resident of South Dakota for at least two years next preceding his election, and at time of election a resident of district for which

he is elected; citizen of the United States; qualified elector of South Dakota. \$1,500. Bond of \$5,000. *Rev. Pol. Code 1903, secs. 186, 187, 189-191, 194, 195 (as amended by Sess. Laws 1907, ch. 208).*

TENNESSEE Railroad Commission of the State of Tennessee, Nashville. Chairman and two commissioners. Elected at the regular election in November for six years; one every two
46 years. Chairman elected by members every two years. Twenty-five years of age; resident citizens of Tennessee; qualified voter. \$2,000. Bond of \$20,000. *Acts 1897, ch. 10, secs. 1, 2, 3 (as amended by Acts 1907, ch. 390, sec. 1), 4.*

TEXAS Railroad Commission of Texas, Austin. Chairman and two commissioners. Elected at general election for state officers for six years; one every two years. Chairman
46 elected by commissioners. Twenty-five years of age; residents of Texas; qualified voters. \$4,000. *Const., art. xvi, sec. 30. Sayles' Civ. Stats. 1897, arts. 4561, 4561(1), 4561(5).*

VERMONT Public Service Commission, Newport. Chairman and two commissioners. Appointed by governor with advice and consent of senate for six years; one every two years.
47 Chairman designated by governor every two years. Chairman, \$2,200; each commissioner, \$1,700. *Pub. Stats. 1906, secs. 4591, 4592, 6172 (as amended by Laws 1908, no. 116, sec. 21). Laws 1908, no. 116, sec. 1.*

VIRGINIA State Corporation Commission,¹ Richmond. Chairman and two commissioners. Appointed by governor subject to confirmation by general assembly in joint session for
48 six years; one every two years. Chairman elected annually by commission. At least one commissioner with same qualifications as are required for judges of supreme court of appeals; citizen of Virginia. Not less than \$4,000. *Const., sec. 155.*

WASHINGTON The Public Service Commission of Washington, Olympia. Chairman and two commissioners. Appointed by governor by and with advice and consent of senate for six
48 years and until his successor shall have been appointed and qualified; one every two years. Chairman elected. \$5,000. Bond of \$20,000. *Laws 1911, ch. 117, secs. 2, 3, 6.*

WISCONSIN Railroad Commission of Wisconsin, Madison. Chairman and two commissioners. Appointed by governor by and with advice and consent of senate for six years and until

¹ After January 1, 1908, general assembly may provide for election of members of commission, in which event vacancies thereafter occurring shall be filled as hereinbefore provided until the expiration of twenty days after the next general election, held not less than sixty days after vacancy occurs, at which election vacancies shall be filled for residue of unexpired term. *Const., sec. 155.*

General assembly may establish within the department, and subject to the supervision and control of commission, subordinate divisions or bureaus of insurance, banking or other special branches of the business of that department. *Same.*

his successor is appointed and qualified; one every two years. Chairman elected by commissioners on second Monday of February in each odd numbered year for two years and until his successor is elected. One having a general knowledge of railroad law, each of the others having a general understanding of matters relating to railroad transportation. \$5,000. *Laws 1905, ch. 362, secs. 1797-1(j), 1797-1(k). Laws 1907, ch. 582, secs. 1797-1, 1797-1(a), 1797-1(f), 1797-1(g).*

B. QUORUM OF COMMISSION.

1. Majority Constitutes Quorum.

UNITED STATES, ARIZONA, ARKANSAS, CALIFORNIA, INDIANA, IOWA, KENTUCKY, MARYLAND, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA,¹ NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, VERMONT, VIRGINIA, WASHINGTON, WISCONSIN

Majority shall constitute quorum to transact business. U. S.—*Act to regulate Commerce, sec. 17; Ariz.—Sess. Laws 1912, ch. 90, sec. 9; Ark.—Kirby's Digest 1904, sec. 6793; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 9; Ind.—Acts 1907, ch. 241, sec. 2(a); Ia.—Code 1897, sec. 2142; Ky.—Carroll's Stats. 1909, sec. 821; Md.—Laws 1910, ch. 180, sec. 4; Mich.—Pub. Acts 1909, no. 300, sec. 2(f); Minn.—Rev. Laws 1905, sec. 1958; Miss.—Code 1906, sec. 4828; Mo.—Rev. Stats. 1909, sec. 3205; Mont.—Rev. Codes 1907, sec. 4365; Nev.—Stats. 1907, ch. 44, sec. 1(a), as amended by Stats. 1911, ch. 193; N. J.—Laws 1911, ch. 195, sec. 13; N. M.—Laws 1912, ch. 78, sec. 5; N. Y.—Laws 1910, ch. 480, sec. 11; N. C.—Pell's Revisal 1908, sec. 1062; N. D.—Rev. Codes 1905, sec. 4362; Ohio—Code 1910, sec. 495; Okla.—Const., art. ix, sec. 18(a); Ore.—Gen. Laws 1907, ch. 53, sec. 4; Pa.—Laws 1907, no. 250, sec. 5; R. I.—Acts 1912, ch. 795, sec. 8; S. C.—Gen. Stats. 1902, sec. 2064, S. D.—Rev. Pol. Code 1903, sec. 192; Tenn.—Acts 1897, ch. 10, sec. 2; Tex.—Sayles' Civ. Stats. 1897, art. 4561(5); Vt.—Pub. Stats. 1906, sec. 4596, as amended by Laws 1910, no. 155, sec. 1; Va.—Const., sec. 155; Wash.—Laws 1911, ch. 117, sec. 7; Wis.—Laws 1907, ch. 582, sec. 1797-1(g).*

Two members of the board of railroad commissioners can act in the absence of the third member. *City of Worcester vs. Board of Railroad Commissioners, 113 Mass. 161.*

¹ The chairman is authorized and empowered to perform the duties and exercise the powers conferred by law upon commission as to or over banks and building and loan associations, but this shall not prevent, as to banking and building and loan associations, the other members of court from acting with the chairman in all of such matters. *Pell's Revisal 1908, sec. 1062.*

2. Powers of Less Than Entire Membership.

UNITED STATES, ARIZONA, CALIFORNIA, MICHIGAN, MINNESOTA, OHIO, OREGON, PENNSYLVANIA, VIRGINIA, WISCONSIN

No vacancy shall impair the right of remaining commissioners to exercise all the powers of commission. *U. S.*—

- 52 *Act to Regulate Commerce, sec. 11; Ariz.—Sess. Laws 1912, ch. 90, sec. 9; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 9; Mich.—Pub. Acts 1909, no. 300, sec. 2(f); Minn.—Rev. Laws 1905, sec. 1958; Ohio—Code 1910, sec. 493; Ore.—Gen. Laws 1907, ch. 53, sec. 4, Pa.—Laws 1907, no. 250, sec. 1; Va.—Const., sec. 156; Wis.—Laws 1907, ch. 582, sec. 1797-1(g).*

3. Powers of Single Commissioner.

NEVADA

In event of disability or disqualification of two commissioners or existence of two vacancies at same time,

- 53 the remaining commissioner shall have power of a majority and his official acts shall stand as acts of commission. *Stats. 1907, ch. 44, sec. 1(a), as amended by Stats. 1911, ch. 193.*

C. OATH OF OFFICE OF MEMBERS.

ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, CONNECTICUT, FLORIDA, GEORGIA, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, MARYLAND, MASSACHUSETTS,¹ MICHIGAN, MINNESOTA, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, VERMONT, WASHINGTON, WISCONSIN

Commissioners shall take and subscribe to the constitutional oath of office, and such additional oaths as are prescribed. *Ala.—Code 1907, sec. 5637; Ariz.—Sess. Laws 1912, ch. 90, sec. 7; Ark.—Kirby's Digest 1904, sec. 6792; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 7; Conn.—Pub. Acts 1911, ch. 128, sec. 2; Fla.—Gen. Stats. 1906, sec. 2886; Ga.—Code 1911, sec. 2619; Ill.—Revisal 1909, ch. 114, sec. 169; Ind.—Acts 1907, ch. 241, sec. 1(d); Ia.—Code 1897, sec. 2111; Kan.—Laws 1911, ch. 238, sec. 8; Ky.—Carroll's Stats. 1909, sec. 822; Md.—Laws 1910, ch. 180, sec. 2; Mass.—Rev. Laws 1902, ch. 121, sec. 1.*

- 54 *Acts 1906, ch. 463, pt. i, sec. 1; Mich.—Pub. Acts 1909, no. 300, sec. 2(d); Minn.—Rev. Laws 1905, sec. 1956, as amended by Laws 1911, ch. 140; Mo.—Rev. Stats. 1909, sec. 3261; Mont.—Rev. Codes 1907, sec. 4364; Neb.—Cobbey's Annot. Stats. 1909, sec. 10649; Nev.—Stats. 1907, ch. 44, sec. 1(i), as amended by Stats. 1911, ch. 193; N. Y.—Laws 1910, ch. 480, sec. 9; N. C.—Pell's Revisal 1908, sec. 1059; N. D.—Rev. Codes 1905, sec. 366; Ohio—Code 1910, sec. 490; Okla.—Const., art. ix, sec. 17; Ore.—Gen. Laws 1907, ch. 53, sec. 2, as amended by Laws 1911, ch. 279.*

¹ Gas and Electric Commission and Railroad Commission.

sec. 79; Pa.—*Laws 1907, no. 250, sec. 4*; R. I.—*Acts 1912, ch. 795, sec. 3*; S. C.—*Gen. Stats. 1902, sec. 2063*; S. D.—*Rev. Pol. Code 1903, sec. 194*; Tenn.—*Acts 1897, ch. 10, sec. 4*; Tex.—*Sayles' Civ. Stats. 1897, art. 4561(4)*; Vt.—*Pub. Stats. 1906, sec. 4595*; Wash.—*Laws 1911, ch. 117, sec. 3*; Wis.—*Laws 1907, ch. 582, sec. 1797-1(e)*.

D. REMOVAL OR SUSPENSION OF MEMBERS

1. Person Authorized to Remove Members.

The person, persons or body authorized to remove commissioners from office are as follows:

UNITED STATES—president. *Act to Regulate Commerce, sec. 1*; ALABAMA—Supreme court. *Code 1907, sec. 5639*; ARKANSAS, FLORIDA, ILLINOIS, INDIANA, KANSAS, MARYLAND, MICHIGAN, MINNESOTA, NEW JERSEY, NEW YORK, OHIO, SOUTH CAROLINA, WASHINGTON and WISCONSIN—governor. Ark.—*Kirby's Digest 1904, sec. 6789*; Fla.—*Gen. Stats. 1906, sec. 2884*; Ill.—*Revisal 1909, ch. 114, sec. 168*; Ind.—*Acts 1907, ch. 241, sec. 1(c)*; Kan.—*Laws 1911, ch. 238, sec. 8*; Md.—*Laws 1910, ch. 180, sec. 2*; Mich.—*Pub. Acts 1909, no. 300, sec. 2(b)*; Minn.—*Rev. Laws 1905, sec. 1957*; N. J.—*Laws 1911, ch. 195, sec. 2*; N. Y.—*Laws 1910, ch. 180, sec. 4*; Ohio—*Code 1910, sec. 491*; S. C.—*Laws 1910, no. 286, sec. 5*; Wash.—*Laws 1911, ch. 117, sec. 2*; Wis.—*Laws 1907, ch. 582, sec. 1797-1(b)*; CALIFORNIA—legislature, by a two-thirds vote of all members elected to each house. *Stats. 1911, 1st ex. sess., ch. 14, sec. 3(b)*; CONNECTICUT—superior court. *Pub. Acts 1911, ch. 128, sec. 5*; GEORGIA—majority of each branch of general assembly. *Code 1911, sec. 2618*; KENTUCKY—general assembly. *Const., sec. 209*; MASSACHUSETTS (Gas and Electric Commission)—governor, with advice and consent of council. *Rev. Laws 1902, ch. 121, sec. 1*, as amended by *Acts 1907, ch. 316*; NEVADA—railroad board consisting of governor, lieutenant-governor and attorney-general. *Stats. 1907, ch. 44, sec. 1(b)*, as amended by *Stats. 1911, ch. 193*; NEW HAMPSHIRE—governor and council. *Laws 1911, ch. 164, sec. 2(c)*; OREGON—governor, secretary of state and state treasurer. *Gen. Laws 1907, ch. 53, sec. 2*, as amended by *Gen. Laws 1911, ch. 279, sec. 79*; RHODE ISLAND—governor, with advice and consent of senate. *Acts 1912, ch. 795, sec. 5*.

2. Cause of Removal.

Causes for removal of members of commission follow:

UNITED STATES, CONNECTICUT, INDIANA, MARYLAND, MICHIGAN, MINNESOTA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, OHIO, OREGON, RHODE ISLAND, WASHINGTON and WISCONSIN—inefficiency, neglect of duty, misconduct or malfeasance in office. U. S.—*Act to Regulate Commerce, sec. 11*; Conn.—*Pub. Acts 1911, ch. 128, sec. 5*; Ind.—*Acts 1907, ch. 241, sec. 1(c)*; Md.—*Laws 1910, ch. 180, sec. 2*; Mich.—*Pub. Acts 1909, no. 300, sec. 2(b)*; Minn.—*Rev. Laws 1905, sec. 1957*; Nev.—*Stats. 1907, ch. 44, sec. 1(b)*, as amended by *Stats. 1911, ch. 193*; N. H.—*Laws 1911, ch. 164, sec. 2(c)*; N. J.—*Laws 1911, ch. 195, sec. 2*; N. Y.—*Laws 1910, ch. 480, sec. 4*; Ohio—*Code 1910, sec. 491*; Ore.—*Gen. Laws 1907, ch. 53, sec. 2*, as amended by *Gen. Laws 1911, ch. 279, sec. 79*; R. I.—*Acts 1912, ch. 795, sec. 5*; Wash.—*Laws 1911, ch. 117, sec. 2*; Wis.—*Laws 1907, ch. 582, sec. 1797-1(b)*; ALABAMA and MISSISSIPPI—directly or indirectly accepting any gift, gratuity, emolument or employment from any carrier. Ala.—*Code 1907, sec. 5639*; Miss.—*Code 1906, sec. 4827*; ARKANSAS—failure of member to divest himself of interest in any utility. *Kirby's Digest 1904, sec. 6789*; KANSAS and NEW HAMPSHIRE—failure of member to divest himself of interest in any utility within a reasonable time. Kan.—*Laws 1911, ch. 238, sec. 8*; N. H.—*Laws 1911, ch. 164, sec.*

¹ Commissioner cannot be removed but must be recalled by a majority or plurality vote of electors, in which event his successor must be elected at the same time.

2(c); **FLORIDA**—malfeasance, misfeasance, neglect of duty, drunkenness or incompetency; **OHIO**—failure of member to divest himself of interest in any utility within 30 days. *Code 1910, sec. 488*; **CALIFORNIA**—dereliction of duty, corruption or incompetency. *Stats. 1911, 1st ex. sess., ch. 14, sec. 3(b)*; **CONNECTICUT**—active participation in politics. *Pub. Acts 1911, ch. 128, sec. 5*; **KENTUCKY, MASSACHUSETTS** (Gas and Electric Commission), **RHODE ISLAND**—for cause shown. *Ky.—Const., sec. 209*; *Mass.—Rev. Laws 1902, ch. 121, sec. 1, as amended by acts 1907, ch. 316*; *R. I.—Acts 1912, ch. 795, sec. 5*; **MONTANA**—failure to perform duties of office. *Rev. Codes 1907, sec. 4397*; **NEW HAMPSHIRE**—voluntarily becoming interested pecuniarily in any utility or holding another political office. *Laws 1911, ch. 164, sec. 2(b)*.

3. Procedure.

Procedure in cases of the removal of a commissioner is as follows:

CONNECTICUT—commissioner shall be removed only after judgment of superior court rendered upon written complaint of attorney-general filed in his discretion or when so directed by governor or if so requested in writing by one hundred electors. Upon the filing of complaint, a rule to show cause shall issue to accused who may make answer within such time as court may limit and may be heard in his own defense by witnesses and counsel. Procedure shall be similar to that in civil actions but such complaint shall be privileged in order and trial and heard as soon as practicable. *Pub. Acts 1911, ch. 128, sec. 5*; **INDIANA, MINNESOTA and NEW HAMPSHIRE**—commissioner shall be given notice, a copy of charges against him and an opportunity of being heard in his own defense. *Ind.—Acts 1907, ch. 241, sec. 1(c)*; *Minn.—Rev. Laws 1905, sec. 1957*; *N. H.—Laws 1911, ch. 164, sec. 2(c)*; **KENTUCKY and VIRGINIA**—procedure same as in case of removal or impeachment of judges of court of last resort. *Ky.—Const., sec. 209*; *Va.—Const., sec. 155*; **MARYLAND, MICHIGAN, NEVADA, NEW YORK, OHIO, OREGON,¹ WASHINGTON and WISCONSIN**—before commissioner shall be removed he shall be given a copy of charges against him and time shall be fixed when he can be publicly heard in his own defense which shall not be less than ten days thereafter: if commissioner shall be removed the person or persons authorized to make such removal shall file in office of secretary of state a complete statement of all charges against such commissioner and findings thereon with a record of the proceedings. *Md.—Laws 1910, ch. 180, sec. 2*; *Mich.—Pub. Acts 1909, no. 300, sec. 2(b)*; *Nev.—Stats. 1907, ch. 44, sec. 1(b), as amended by Stats. 1911, ch. 103*; *N. Y.—Laws 1910, ch. 480, sec. 4*; *Ohio—Code 1910, sec. 491*; *Ore.—Gen. Laws 1907, ch. 53, sec. 2, as amended by Gen. Laws 1911, ch. 279, sec. 79*; *Wash.—Laws 1911, ch. 117, sec. 2*; *Wis.—Laws 1907, ch. 582, sec. 1997-1(b)*; **MASSACHUSETTS** (Gas and Electric Commission)—commissioners shall be given notice and hearing. *Rev. Laws 1902, ch. 121, sec. 1, as amended by Acts 1907, ch. 316*; **NEW JERSEY**—commissioner shall be given a copy of charges against him and an opportunity of being publicly heard in person or by counsel in his own defense upon not less than ten days' notice. *Laws 1911, ch. 195, sec. 2*.

4. Person Authorized to Suspend Members; Cause of Suspension.

The person authorized to suspend commissioners and the causes of suspension are as follows:

ARKANSAS—commissioner may be suspended for failure to remove disqualifications or to resign. *Kirby's Digest 1904, sec. 6789*; **FLORIDA**—commissioner may be suspended by governor.² *Gen. Stats. 1906, sec. 2886*; **GEORGIA**—upon failure to remove disqualifications or to resign commissioner must be suspended by governor who may fill the vacancy until suspended commissioner is restored or removed; any commissioner may be suspended by governor, who shall report the suspension and the reason therefor to the next general assembly. *Code 1911, sec. 2618*; **MONTANA**—upon complaint and for cause shown governor may suspend commissioner and if necessary may appoint temporarily some competent person to fill vacancy during period of suspension. *Rev. Codes 1907, sec. 4397*.

NORTH CAROLINA—See *par. 101*.

¹ Commissioner can only be removed by a recall petition signed by 25 per cent of the legal voters of his district and by special election called for the purpose of electing his successor.

² Suspension to terminate at end of next session of senate unless officer be removed by senate on recommendation of governor.

5. Vacation of Office.

Manner in which commissioners vacate office and causes of vacation of office are as follows:

ALABAMA—if commissioner shall fail or refuse for thirty days to qualify his office becomes vacant. *Code 1907, sec. 5635*; **ARKANSAS**—commissioner vacates office upon failure to divest himself within reasonable time of interest in any railroad. *Kirby's Digest 1904, sec. 6789*; **ARIZONA, CALIFORNIA, MICHIGAN, NEBRASKA, NEVADA, OHIO, OKLAHOMA, OREGON, TEXAS and WISCONSIN**—if any commissioner shall voluntarily become interested in any utility his office shall *ipso facto* become vacant; if he shall become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest; failing so to do his office shall become vacant. *Aris.—Sess. Laws 1912, ch. 90, sec. 7*; *Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 7*; *Mich.—Pub. Acts 1909, no. 300, sec. 2(c)*; *Neb.—Cobbey's Annot. Stats. 1909, sec. 10649*; *Nev.—Stats. 1907, ch. 44, sec. 1(c), as amended by Stats. 1911, ch. 197*; *Ohio—Code 1910, sec. 488*; *Okla.—Const., art. ix, sec. 16*; *Ore.—Gen. Laws 1907, ch. 53, sec. 2, as amended by Gen. Laws 1911, ch. 279, sec. 79*; *Tex.—Sayles' Civ. Stats. 1897, art. 4561(1)*; *Wis.—Laws 1907, ch. 582, sec. 1797-1(c)*.

NEVADA—See also *par. 3746*.

NORTH CAROLINA—See *par. 101*.

6. Forfeiture and Impeachment.¹

Manner and causes of impeachment and forfeiture of office of commissioners are as follows:

ALABAMA—commissioners may be impeached and removed by the supreme court for any cause and in manner specified by law for impeachment and removal of other state officers. *Code 1907, sec. 5639*; **MISSISSIPPI**—commissioner shall forfeit office and may be impeached and removed for any cause specified by law for impeachment of other state officers and upon conviction shall be fined \$1,000 to \$10,000 or imprisoned in penitentiary or both. *Code 1906, sec. 4827*; **SOUTH DAKOTA**—if any commissioner shall wilfully neglect or refuse to perform duties imposed upon him he shall be deemed guilty of a misdemeanor and in addition to the punishment provided by law shall be subject to criminal prosecution and upon conviction shall forfeit office. *Sess. Laws 1911, ch. 207, sec. 47*.

E. MANNER OF FILLING VACANCIES.

Vacancies in commission are filled in the manner described:

In elective commissions: **ARIZONA, GEORGIA, MINNESOTA, MISSOURI, MONTANA, NEBRASKA, NORTH CAROLINA, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE and TEXAS**—vacancy shall be filled by appointment by governor until next general election when commissioner shall be elected for unexpired term. *Aris.—Const., art. xv, sec. 1. Sess. Laws 1912, ch. 90, sec. 3(b)*; *Ga.—Code 1911, sec. 2617*; *Minn.—Rev. Laws 1905, sec. 1954*; *Mo.—Rev. Stats. 1909, sec. 3250*; *Mont.—Rev. Codes 1907, sec. 4363*; *Neb.—Cobbey's Annot. Stats. 1909, sec. 10649*; *N. C.—Fell's Revisal 1908, sec. 1057*; *Okla.—Const., art. ix, sec. 15*; *S. C.—Gen. Stats. 1902, sec. 2063*; *S. D.—Rev. Pol. Code 1903, sec. 188*; *Tenn.—Acts 1897, ch. 10, sec. 1*; *Tex.—Const., art. xvi, sec. 30*; **ALABAMA, ARKANSAS and FLORIDA**—vacancy shall be filled by appointment by governor. *Ala.—Code 1907, sec. 5635*; *Ark.—Kirby's Digest 1904, sec. 6791*; *Fla.—Gen. Stats. 1906, sec. 2884*; **KENTUCKY**—vacancy shall be filled in manner provided in constitution. *Const., sec. 209*; **OREGON**—vacancy shall be filled by appointment by governor, secretary of state and state treasurer. *Gen. Laws 1907, ch. 53, sec. 1, as amended by Gen. Laws 1911, ch. 279, sec. 79*.

¹ **MISSOURI**—If commissioners shall fail or refuse to perform any act or duty required of them by sections 3179-3207, they shall be liable to proceedings in mandamus to compel the performance of such act or duty, and in addition thereto shall be liable to such fine as the court may impose, not exceeding \$500. *Rev. Stats. 1909, sec. 3205*.

In commissions chosen by appointment and confirmation: **CONNECTICUT, MICHIGAN, NEW HAMPSHIRE, OHIO, PENNSYLVANIA, RHODE ISLAND, VERMONT, VIRGINIA and WISCONSIN**—governor or other officer authorized to make original appointment shall make appointment to fill vacancy subject to confirmation of senate or other original ratifying body. *Conn.—Pub. Acts 1911, ch. 128, sec. 3; Mich.—Pub. Acts 1909, no. 300, sec. 1; N. H.—Laws 1911, ch. 164 sec. 2(a); Ohio—Code 1910, sec. 492; Pa.—Laws 1907, no. 250, sec. 1; R. I.—Acts 1912 ch. 795, sec. 6; Vt.—Pub. Stats. 1906, sec. 4592; Va.—Const., sec. 155; Wis.—Laws 1907, ch. 582, sec. 1797-1; COLORADO, KANSAS and WASHINGTON—governor or other officer authorized to make original appointment shall make appointment to fill vacancy. *Col.—Laws 1910, sp. sess., ch. 5, sec. 11; Kan.—Laws 1911, ch. 238, sec. 5; Wash.—Laws 1911, ch. 117, sec. 2; UNITED STATES and NEW YORK—vacancy shall be filled by appointment. *U. S.—Act to Regulate Commerce sec. 24; N. Y.—Laws 1910, ch. 480, sec. 4; NEW JERSEY—vacancy shall be filled. *Laws 1911, ch. 195, sec. 2.****

In commissions chosen by appointment: **CALIFORNIA, INDIANA, MARYLAND and NEVADA**—governor or other officer or officers authorized to make original appointment shall make appointment to fill vacancy. *Cal.—Stats. 1911, 1st ex. sess. ch. 14, sec. 3(b); Ind.—Acts 1907, ch. 241, sec. 1(c); Md.—Laws, 1910, ch. 180, sec. 2; Nev.—Stats. 1907, ch. 44, sec. 1, as amended by Stats. 1911, ch. 193.*

F. RIGHT TO SUE AND BE SUED.

CALIFORNIA Commission may sue in the name of the people of the State of California. *Stats. 1911, 1st ex. sess., ch. 14, sec. 72.*

COLORADO Commission may sue and be sued in its official name. *Laws 1910, sp. sess. ch. 5, sec. 12.*

MICHIGAN, NEVADA, OHIO, OREGON, WISCONSIN

Commission may sue and be sued in its official name. *Mich.—Pub. Acts 1909, no. 300, sec. 2(j); Nev.—Stats. 1907, ch. 44, sec. 1(j), as amended by Stats. 1911, ch. 193; Ohio—Code 1910, sec. 487; Ore.—Gen. Laws 1907, ch. 53, sec. 7; Wis.—Laws 1905, ch. 362, sec. 1797-1(j).*

G. OFFICIAL SEAL.

UNITED STATES, ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADA, ILLINOIS, INDIANA, IOWA, KANSAS, MARYLAND, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OHIO, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH DAKOTA, TEXAS, VERMONT, WASHINGTON, WISCONSIN

Commission shall have an official seal of which courts shall take judicial notice, in the form described in the statute. *U. S.—Act to Regulate Commerce, sec. 17; Ala.—Code 1907, sec. 5637; Ariz.—Sess. Laws 1912, ch. 90, sec. 8(b); Ark.—Kirby's Digest 1904, sec. 6793; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 8(b); Col.—Laws 1910, sp. sess., ch. 5, sec. 12; Ill.—*

Revisal 1909, sec. 203; Ind.—Acts 1907, ch. 241, sec. 2(a); Ia.—Code 1897, sec. 2142; Kan.—Gen. Stats. 1909, sec. 7184; Md.—Laws 1910, ch. 180, sec. 4; Mich.—Pub. Acts 1909, no. 300, sec. 2(j); Minn.—Rev. Laws 1905, sec. 1961; Miss.—Code 1906, sec. 4830; Mo.—Rev. Stats. 1909, sec. 3262; Mont.—Rev. Codes 1907, sec. 4366; Neb.—Cobbey's Annot. Stats. 1909, sec. 10650; Nev.—Stats. 1907, ch. 44, sec. 1(j), as amended by Stats. 1911, ch. 193; N. H.—Laws 1911, ch. 164, sec. 2(j); N. J.—Laws 1911, ch. 195, sec. 11; N. Y.—Laws 1910, ch. 480, sec. 10(1); N. C.—Pell's Revisal 1908, sec. 1054; N. D.—Rev. Codes 1905, sec. 4362; Ohio—Laws 1911, no. 325, sec. 79; Ore.—Gen. Laws 1907, ch. 53, sec. 7; Pa.—Laws 1907, no. 250, sec. 5; R. I.—Acts 1912, ch. 795, sec. 7; S. D.—Rev. Pol. Code 1903, sec. 192; Tex.—Sayles' Civ. Stats. 1897, art. 4561(5); Vt.—Pub. Stats. 1906, sec. 4597; Wash.—Laws 1911, ch. 117, sec. 6; Wis.—Laws 1905, ch. 362, sec. 1797-1(j).

H. DISQUALIFICATIONS FOR MEMBERSHIP.

1. Interest in any Utility.

ARKANSAS, CONNECTICUT, FLORIDA, GEORGIA, ILLINOIS, IOWA, KANSAS, KENTUCKY, LOUISIANA, MASSACHUSETTS, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW MEXICO, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, SOUTH DAKOTA, TENNESSEE, TEXAS, VIRGINIA

No person employed by or connected with or holding any official relation to or owning stocks or bonds of or having any direct or indirect or pecuniary interest in any public utility of the kind over which commission has jurisdiction shall be eligible to enter upon the duties or fill the office of commissioner. Ark.—Kirby's Digest 1904, sec. 6789; Conn.—Gen. Stats. 1902, sec. 3878; Fla.—Gen. Stats. 1906, sec. 2885; Ga.—Code 1911, sec. 2620; Ill.—Revisal 1909, ch. 114, sec. 237; Ia.—Laws 1911, ch. 94, sec. 2; Kan.—Laws 1911, ch. 238, sec. 8; Ky.—Const., sec. 209; La.—Const., art. 288, as amended by Stats. 1907, no. 15; Mass.—Rev. Laws 1902, ch. 121, sec. 1, as amended by Acts 1907, ch. 316. Acts 1906, ch. 433, sec. 1. Acts 1906, ch. 463, pt. i, sec. 1; Mich.—Pub. Acts 1909, no. 300, sec. 2(c); Minn.—Rev. Laws 1905, sec. 1955; Miss.—Code 1906, sec. 4826; Mo.—Rev. Stats. 1909, sec. 3250; Mont.—Rev. Codes 1907, sec. 4363; Neb.—Cobbey's Annot. Stats. 1909, sec. 10649; Nev.—Stats. 1907, ch. 44, sec. 1(c), as amended by Stats. 1911, ch. 193; N. H.—Laws 1911, ch. 164, sec. 2(b); N. M.—Const., art. xi, sec. 3; Ohio.—Code 1910, sec. 488; Okla.—Const., art. ix, sec. 16; Ore.—Gen. Laws 1907, ch. 53, sec. 2, as amended by Gen. Laws 1911, ch. 279, sec. 79; Pa.—Laws 1907, no. 250, sec. 4; S. D.—Rev. Pol. Code 1903, sec. 189; Tenn.—Acts 1897, ch. 10,

sec. 4; *Tex.*—*Sayles' Civ. Stats.* 1897, art. 4561(1); *Va.*—*Const.*, sec. 155.

A person is not "interested," under public stats. 1901, Chap. 155, Sec. 1, unless his interest prevents him from being "indifferent," so that a depositor in a bank owning railroad stock is not so "interested" that he cannot be a railroad commissioner. *In re Opinion of Justices*, 75 (N. H.) 613.

2. Interest in any Utility under Jurisdiction of Commission.

UNITED STATES, ALABAMA, ARIZONA, CALIFORNIA, COLORADO, MARYLAND, NEW YORK, NORTH DAKOTA, RHODE ISLAND, SOUTH CAROLINA, VERMONT

No person employed by or connected with or holding any official relation to or owning stocks or bonds of or having any direct or indirect or pecuniary interest in any utility over which commission has jurisdiction shall be eligible to enter upon the duties or fill the office of commissioner. *U. S.*—*Act to Regulate Commerce*, sec. 11; *Ala.*—*Code* 1907, sec. 5638; *Ariz.*—*Sess. Laws* 1912, ch. 90, sec. 7; *Cal.*—*Stats.* 1911, 1st ex. sess., ch. 14, sec. 7; *Col.*—*Laws* 1910, sp. sess., ch. 5, sec. 11; *Md.*—*Laws* 1910, ch. 180, sec. 2; *N. Y.*—*Laws* 1910, ch. 480, sec. 9; *N. D.*—*Rev. Codes* 1905, sec. 365; *R. I.*—*Acts* 1912, ch. 795, sec. 4; *S. C.*—*Gen. Stats.* 1902, sec. 2063; *Vt.*—*Pub. Stats.* 1906, sec. 4593, as amended by *Laws* 1908, no. 116, sec. 22.

3. Interest in Certain Utilities under Jurisdiction of Commission.

WISCONSIN No person having any pecuniary interest in any railroad¹ in Wisconsin or elsewhere shall be eligible to enter upon the duties or fill the office of commissioner. *Laws* 1907, ch. 582, sec. 1797-1(c).

I. OFFICIAL AND PRIVATE RELATIONS OF MEMBERS AND EMPLOYES WITH UTILITIES.

ALABAMA Commissioners and employes may pass free on railroads in performance of duties. *Code* 1907, sec. 5656.

Commissioners or clerk may enter into contracts with corporations, firms, utilities or associations in their capacities as common carriers. *Same*, sec. 5646.

Any commissioner who shall accept any gift, gratuity, emolument or employment from any railroad except a permit for himself or an employe of commission to pass over the road while on official business shall forfeit his office and may be impeached and removed therefrom. *Same*, sec. 5639.

See also par. 2088.

¹ The term "railroad" includes express and telegraph companies.

ARIZONA Commissioner, officer, or employee of commission shall not be denied the right to travel upon any railroad, car, or other vehicle of such common carrier whether such railroad, car, or other vehicle be used for the transportation of passengers or freight, and regardless of class. *Sess. Laws 1912, ch. 90, sec. 11.*

ARKANSAS Commission shall make requisition in name of state upon railroads for transportation of themselves and employees when engaged in duties. Railroads may furnish same without charge. *Kirby's Digest 1904, sec. 6798.*

CALIFORNIA Members, officers and employees may pass free on common carriers when in performance of duties. *Stats. 1911, 1st ex. sess. ch. 14, sec. 11.*

Such persons shall not be denied the right to travel upon common carriers whether used for passengers or freight and regardless of class. *Same.*

See also pars. 2095, 2232.

COLORADO Common carriers shall furnish free transportation to commissioners or employees while in discharge of duties. *Laws 1910, sp. sess., ch. 5, sec. 11.*

CONNECTICUT Commissioners and employees may pass free on railroads and street railways in performance of duties. *Gen. Stats. 1902, sec. 3883.*

ILLINOIS Commissioners and employees may pass free over railroads and railroad trains and over, upon and in instrumentalities used by common carriers in transportation, while in performance of duties. *Revisal 1909, ch. 114, sec. 171.*

INDIANA It is unlawful for commissioners, secretary and employees to receive free transportation, reduced rates, prerequisites, gifts or emoluments from railroads or parties interested therein; violation constitutes misdemeanor; fine of \$50 to \$100; governor shall declare office vacant. *Acts 1907, ch. 241, sec. 1(f).*

Common carriers shall provide free transportation for inspectors while on business of commission. *Same.*

IOWA Commissioners, secretary, experts and agents shall be carried free on railroads and trains while performing duties. *Code 1897, sec. 2151.*

KANSAS Commissioners, attorney, secretary and employees may pass free over roads and on railroad trains or any part thereof while in the performance of their duties. *Gen. Stats. 1909, sec. 7169.*

- It is unlawful for commissioner, attorney, secretary or employes to receive or apply for free transportation or reduced rates from common carriers or their employes for other persons; violation constitutes misdemeanor; fine of \$50 to \$1,000; governor shall declare office vacant. Commissioners and attorney shall not ask nor receive from any utility any other pay or emolument for services. *Same.*

See also par. 2115.

KENTUCKY

- Commissioners, rate clerk and stenographer may pass free over railroads upon written or printed authority when engaged in duties. *Carroll's Stats. 1909, sec. 822.*

- Commissioners shall not directly or indirectly solicit, request from, or recommend to the officers, attorneys or employes of railroads, the appointment of any person to places or positions, nor request, accept or receive any present, gift, or gratuity from utilities; nor shall any corporation offer to commissioners any place or appointment for themselves or other persons. Violation by any corporation or person; fine of \$1,000 to \$5,000. *Same, sec. 832.*

MARYLAND

- Commissioners, general counsel, secretary and employes are forbidden and prohibited to solicit, suggest, request or recommend directly or indirectly to utilities or their officers, attorneys or employes the appointment of persons to any office, place, position or appointment. Utilities, their officers, attorneys and employes are forbidden and prohibited to offer to commissioners, general counsel, secretary or employes any place, office, appointment or position, or to offer to give them free passes, free transportation, reductions in fares to which public generally are not entitled, free carriage of freight or property, presents, gifts or gratuities. Governor shall remove from office a member, officer or employe of commission violating this provision. *Laws 1910, ch. 180, sec. 7.*

MASSACHUSETTS

- Railroad commissioners and employes shall be transported free over railroads in performance of duties. They shall not receive directly or indirectly any commission, bonus, discount, present or reward from railroads. *Acts 1906, ch. 463, pt. i, sec. 2.*

- Railroad commissioners and clerk may enter into contracts with a railroad or street railway only as common carriers. *Same, sec. 1.*

MICHIGAN

- Commissioners and employes shall be carried free on railroads, trains, cars and any part thereof, when on business pertaining to railroads. Violation by commissioners or employes constitutes misdemeanor; fine of \$100 to \$1,000 or imprisonment of not more than 90 days, or both, in discretion of court. *Pub. Acts 1909, no. 300, sec. 2(k).*

MINNESOTA

- Commissioners, secretary and employes may
92 pass free on railroads and railroad trains in performance of duties.
Laws 1907, ch. 449, sec. 2.
See also par. 380.

MISSISSIPPI

- Railroads shall transport commissioners and secretary free when on official business and afford them proper facilities and furnish annual passes to commissioners while on
93 railroad business pertaining to their duties. Railroads and other transportation companies shall grant free passes, or tickets, or passes or tickets at a discount to commissioners. *Const., sec. 188. Code 1906, secs. 4859, 4873.*

- It is unlawful for commissioners or secretary to accept free transportation except as provided by law, or any gift, gratuity, emolument or employment. Violation; shall forfeit offices, may
94 be impeached and removed from office and shall be subject to criminal prosecution; fine of \$1,000 to \$10,000, imprisonment of one to ten years, or both. Railroads granting free transportation or reduced rates to commissioners or secretary except when on official business shall be guilty of misdemeanor; fine of not less than \$100. *Code 1906, secs. 4827, 4873.*

- Railroads shall report number of trips and miles they transported commissioners or secretary during preceding year and commission shall report same to legislature. *Same.*

See also par. 382.

MONTANA

- Commissioners and employes may have free
95 transportation. *Rev. Codes 1907, sec. 4369.*

Revised code Montana, 1907, Sec. 4369 allows free transportation to members and employes of the railroad commission traveling on official business. *John vs. No. Pac. Ry., 42 Mont. 19.*

- No commissioner or secretary shall solicit, request from or recommend directly or indirectly to any railroad or officer, attorney or agent thereof, the appointment of any person to any place or position. Railroads and their attorneys or agents shall not offer any place, appointment or position or other consideration to commissioners or their employes; neither shall any
97 commissioner, secretary or employe of commission accept, receive or request any pass from any railroad for himself or for any other person except as provided by law, or any present, gift or gratuity from any railroad. A violation by a member, secretary or employe of commission forfeits office. Violation by any person constitutes misdemeanor; fine of not more than \$500, imprisonment of not more than six months, or both. *Same, sec. 4394.*

See also par. 2147.

NEW HAMPSHIRE

- Commissioners may enter into contracts with
98 any railroad or public utility for the transportation of passengers or property or of telephone or telegraph messages or for the pur-

chase of water, gas, electricity or for other similar services.
Laws 1911, ch. 164, sec. 2(d).

See also par. 386.

NEW YORK

A provision substantially identical with par.

99 88. *Laws 1910, ch. 480, sec. 15.*

To the extent that facilities for inspection of common carriers, railroads and street railroads involve transportation each commissioner and each employe shall pay published one-way fare established by the common carrier for the transportation
100 of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained. *Same, sec. 45(2).*

See also par. 390.

NORTH CAROLINA

It is unlawful for commissioners directly or indirectly to hold stock or bonds, be agent, attorney, employe of, or be interested in any steamboat, railroad, canal, navigation, express or telephone utility, bank building and loan company or
101 association. If commissioner or official of commission shall act as distributor or legatee or in any way become entitled to stock, bonds or interest therein, he shall at once dispose thereof; upon failure to do so he shall forfeit office and may be suspended by governor. *Pell's Revisal 1908, sec. 1058.*

Commissioners and their clerks shall be transported free of charge over all railroads and other transportation lines; and
102 when traveling on official business they may take with them experts or other agents whose service they may deem temporarily of public importance. *Same, sec. 1105.*

See also par. 2167.

NORTH DAKOTA

Commissioners, secretaries and employes
103 may pass free on railroads or other transportation utilities in performance of duties. *Rev. Codes 1905, sec. 368.*

OHIO

Commission may pass free on railroads and
104 trains or any parts thereof in performance of duties. *Code 1910, sec. 608.*

OREGON

Commissioners, secretary, stenographer, and employes may ride in and upon any engine, car, or train of railroads in performance of duties upon payment of local passenger
105 fare, but railroads shall not be deemed to become common carriers of passengers other than on passenger trains nor to be guilty of discrimination. *Gen. Laws 1907, ch. 53, sec. 9.*

SOUTH CAROLINA

Members, secretary and employes of railroad commission shall be transported free over railroads and
106 trains in performance of duties concerning railroads. *Gen. Stats. 1902, sec. 2066.*

See also par. 2668.

SOUTH DAKOTA Commissioners, their secretary, counsel and employes shall not¹ have the right of free transportation upon and over the lines of any common carrier in this state, or other
107 agents whose services they may require, who shall in like manner be transported free of charge. *Sess. Laws 1911, ch. 207, sec. 33.*

TENNESSEE Commissioners shall be entitled to a pass or ticket over railroads while in discharge of duty. Railroads shall
108 furnish each commissioner with a pass or ticket when demanded. *Acts 1897, ch. 10, sec. 5.*

Commissioners shall not accept directly or indirectly any gift, gratuity, emolument, or employment from railroads, their officers, attorneys or employes, nor solicit, request, nor recommend the appointment of persons to any place or position. It
109 is unlawful for railroads or their officers, attorneys, or employes to give or offer to give to commissioners any gift, gratuity, emolument, employment, or place for themselves or others. Violation by any person or corporation; fine of \$1,000 to \$5,000; dismissed from office by judgment of court. *Same.*

VERMONT Commissioners and employes shall be entitled to free transportation upon railroads in performance of
110 duties. They shall not receive directly or indirectly from utilities any commission, present or reward. *Pub. Stats. 1906, secs. 4593 (as amended by Laws 1908, no. 116, sec. 22), 4605.*

Commissioners or clerk may enter into contracts with utilities only as common carriers or in the regular course of public service. *Same, sec. 4593, as amended by Laws 1908, no. 116, sec. 22.*

See also par. 2214.

VIRGINIA Transportation utilities shall transport free commissioners and their officers engaged on official duties; on order of commission attested by clerk or signed by any commissioner they shall furnish free transportation to commissioners and
112 their officers when performing official duties and the order shall show that it is desired for official business. *Const., sec. 155. Pollard's Code 1904, sec. 1313(a)49.*

See also par. 2252.

¹ The word "not" appears in the statute. It is obviously a misprint.

J. AUTHORITY TO ENGAGE IN ANOTHER BUSINESS OR TO HOLD ANOTHER POLITICAL OFFICE.

UNITED STATES, ALABAMA, ARKANSAS, COLORADO, GEORGIA, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, MARYLAND, MASSACHUSETTS,¹ MINNESOTA, MONTANA, NEBRASKA, NEVADA,² NEW HAMPSHIRE,³ NEW JERSEY, OHIO, OKLAHOMA, OREGON,⁴ PENNSYLVANIA, RHODE ISLAND, TENNESSEE, TEXAS, VERMONT, WASHINGTON, WISCONSIN⁴

No commissioner, officer or employe of commission shall engage in any other business, employment or vocation or hold any other political office. U. S.—*Act to Regulate Commerce*, sec. 11; Ala.—*Code 1907*, sec. 5646; Ark.—*Kirby's Digest 1904*, sec. 6790, Col.—*Laws 1910*, sp. sess., ch. 5, sec. 11; Ga.—*Code 1911*, sec. 2620; Ill.—*Revisal 1909*, ch. 114, sec. 168; Ind.—*Acts 1907*, ch. 241, sec. 1(b); Ia.—*Code 1897*, sec. 2111
118 Kan.—*Laws 1911*, ch. 238, sec. 8; Ky.—*Const.*, sec. 209; Md.—*Laws 1910*, ch. 180, sec. 7; Mass.—*Rev. Laws 1902*, ch. 121, secs. 1 (as amended by *Acts 1907*, ch. 316), 2. *Acts 1906*, ch. 433, sec. 1. *Acts 1906*, ch. 463, pt. 1, sec. 1; Minn.—*Rev. Laws 1905*, sec. 1955; Mont.—*Rev. Codes 1907*, sec. 4363; Neb.—*Cobbey's Annot. Stats. 1909*, sec. 10649; Nev.—*Stats. 1907*, ch. 44, sec. 1(n), as amended by *Stats. 1911*, ch. 193; N. H.—*Laws 1911*, ch. 164, sec. 2(d), N. J.—*Laws 1911*, ch. 195, sec. 9; Ohio—*Code 1910*, sec. 489; Okla.—*Const.*, art. ix, sec. 16; Ore.—*Gen. Laws 1907*, ch. 53, sec. 2, as amended by *Gen. Laws 1911*, ch. 279, sec. 79; Pa.—*Laws 1907*, no. 250, sec. 4; R. I.—*Acts 1912*, ch. 795, sec. 4; Tenn.—*Acts 1897*, ch. 10, sec. 4; Tex.—*Sayles' Civ. Stats. 1897*, art. 4561(2); Vt.—*Pub. Stats. 1906*, sec. 4593, as amended by *Laws 1908*, no. 116, sec. 22; Wash.—*Laws 1911*, ch. 117, sec. 3; Wis.—*Laws 1907*, ch. 582, sec. 1797-1(d).

K. OFFICE HOURS AND ATTENDANCE OF MEMBERS.

ARIZONA, CALIFORNIA

Office of commission shall always be open, legal holidays and non-judicial days excepted. Ariz.—*Sess.*
114 *Laws*, ch. 90, sec. 8(a); Cal.—*Stats. 1911*, 1st ex. sess., ch. 14, sec. 8(a).

¹ This provision no longer applies to the board of gas and electric light commissioners.

² These limitations and restrictions shall not apply to the second associate commissioner, but no commissioner shall be a member of any political convention, or a member of any committee of any political party. *Stats. 1907*, ch. 44, sec. 1(e), as amended by *Stats. 1911*, ch. 193.

³ Commissioners may hold the office of justice of the peace or notary public. *Laws 1911*, ch. 164, sec. 4.

⁴ Each commissioner shall devote his entire time to duties of his office.

CONNECTICUT Commission shall keep office open during
115 usual business hours. *Pub. Acts 1911, ch. 128, sec. 6.*

GEORGIA Chairman of commission shall give his entire
116 time to duties. *Code 1911, sec. 2622.*

MARYLAND Office shall be open between 8 A.M. and 9 P.M.
throughout year and one or more responsible persons designated
117 by commission or by secretary under direction of commission
shall be on duty at all times in immediate charge thereof. *Laws
1910, ch. 180, sec. 4.*

MASSACHUSETTS Each highway commissioner shall devote his
118 entire time to the duties of his office. *Rev. Laws 1902, ch. 47,
sec. 1.*

MICHIGAN Commission shall arrange so far as possible
so that at all times during business hours at least some one mem-
119 ber shall be in attendance at office every business day in year
Pub. Acts 1909, no. 300, sec. 2(a).

Each commissioner shall devote to his duties all the time
120 necessary to insure prompt and complete performance of official
duties. *Same.*

MINNESOTA Each commissioner shall devote his entire
121 time to the duties of his office. *Rev. Laws 1905, sec. 1956, as
amended by Laws 1911, ch. 140.*

MISSISSIPPI Commission shall keep office open every day
122 from 9 A.M. to 4 P.M. *Code 1906, sec. 4828.*

MONTANA Office shall always be open during business,
123 hours, legal holidays and non-judicial days excepted. *Rev.
Codes 1907, sec. 4365.*

NEW YORK For each commission identical with par. 117
124 except that hours are between 8 A.M. and 11 P.M. *Laws 1910,
ch. 480, sec. 10(2).*

NORTH CAROLINA Office shall be open at all times and each mem-
ber shall remain in office at least fifteen days in each month un-
125 less detained therefrom on official business. *Pell's Revisal 1908,
sec. 1061.*

OHIO Each commissioner shall devote his entire
126 time to the duties of his office. *Code 1910, sec. 489.*

RHODE ISLAND Office shall be open each day of year except
127 Sundays and legal holidays and during such hours as commis-
sion may deem necessary. *Acts 1912, ch. 795, sec. 7.*

VIRGINIA Commission shall keep office open on every
120 day except Sundays and legal holidays. *Const., sec. 155.*

WASHINGTON Commission shall at all times be open and in
120 session for the transaction of business. *Laws 1911, ch. 117,*
sec. 6.

L. EQUIPMENT, FACILITIES AND EXPENSES REQUIRED TO BE FURNISHED COMMISSION.¹

ALABAMA, ARKANSAS, GEORGIA, MAINE, MASSACHUSETTS, MISSOURI, MONTANA, NEW JERSEY, NORTH CAROLINA, NORTH DAKOTA, OHIO, PENNSYLVANIA, RHODE ISLAND, TENNESSEE

Statutes direct and limit the amount of expenses which may be incurred for various purposes as follows:

120 *Ala.—Code 1907, sec. 5640; Ark.—Kirby's Digest 1904, sec. 6789; Ga.—Acts 1907, no. 223, sec. 15; Me.—Rev. Stats. 1903, ch. 51, sec. 48, as amended by Pub. Laws 1909, ch. 141; Mass.—Acts 1906, ch. 433, sec. 2. Acts 1906, ch. 463, pt. i, sec. 2; Mo.—Rev. Stats. 1909, sec. 3262; Mont.—Rev. Codes 1907, sec. 4370; N. J.—Laws 1911, ch. 195, sec. 12; N. C.—Pell's Revisal 1908, sec. 1118; N. D.—Rev. Codes 1905, sec. 367. Laws 1909, ch. 216, sec. 2; Ohio—Laws 1911, no. 325, sec. 88; Pa.—Laws 1907, no. 250, sec. 24; R. I.—Acts 1912, ch. 795, sec. 4; Tenn.—Acts 1897, ch. 10, sec. 3, as amended by Acts 1907, ch. 390, sec. 1.*

(a) Office expenses shall not exceed:		North Carolina.....	\$3,600
Alabama.....	\$1,000	Ohio.....	75,000
Arkansas, first year.....	1,000	(In addition to sums derived from assessments upon utilities.)	
Arkansas, other years.....	500	Pennsylvania.....	\$100,000
Georgia.....	3,000	(c) Printing expenses shall not exceed:	
Maine.....	5,000	Georgia.....	\$ 2,000
Massachusetts, Railroad Commission.....	4,500	(d) Miscellaneous:	
Massachusetts, Highway Commission.....	6,000	North Dakota—personal expenses of commissioners	
Missouri.....	800	\$400 and traveling expenses	
Montana.....	1,000	\$800.	
North Dakota.....	500	Tennessee—traveling expenses of each commissioner not exceeding \$500.	
Rhode Island.....	8,000		
(b) Total expenses shall not exceed:			
New Jersey.....	100,000		

¹ The statutes require that the commission shall be provided with various facilities and articles of equipment in detail and authorize specified expenses to be incurred by commission. Items of equipment, facilities and expenses are specified variously as follows: (a) **Equipment and Facilities**—Office, office supplies, office furniture, stationery, incidentals, postage, expressage, light and heat, telephone and telegraph, additional office help, instruments, apparatus, appliances, books, maps, charts, literature, statistics; (b) **Expenses**—Printing, litigation, proceedings, investigations, witness fees, processes, inspections, transportation of commissioners, officers and employees.

M. PROVISION OF FUNDS FOR COMMISSION¹

ARIZONA All fees collected shall be paid into state
131 treasury to credit of general fund. *Sess. Laws 1912, ch. 90,*
sec. 57.

See also par. 2495.

CALIFORNIA All fees collected shall be paid into state
132 treasury to credit of fund known as "railroad commission fund."
Stats. 1911, 1st ex. sess., ch. 14, sec. 57.

See also par. 2495.

FLORIDA On recovery of any fine or penalty expenses of
litigation and proceedings may be paid out of money so recovered
133 and the balance shall be put to credit of commission by state
treasurer to meet any of its expenses. Commission may suspend,
reduce or remit any fine or penalty imposed on such terms and
conditions as may be fixed by it. *Gen. Stats. 1906, sec. 2909.*

INDIANA All funds collected by secretary for copies,
134 transcripts and other sources shall be paid into state treasury.
Acts 1907, ch. 241, sec. 16.

KENTUCKY Each railroad shall bear the portion of travel-
ing expenses incurred by commissioners for transportation over
135 its lines and shall pay same to auditor to be covered into treasury
in lieu of written or printed authority entitling commissioners
to be transported. *Carroll's Stats. 1909, sec. 822.*

LOUISIANA After deducting attorney's fees and costs in
136 suits, fines collected shall be paid into state treasury. *Const.,*
art. 288, as amended by Stats. 1907, no. 15.

1 SCHEDULE OF FEES.

ALABAMA

Copy of transcript of investigation,
per folio.....\$.10
Code 1907, sec. 5677.

ARIZONA, CALIFORNIA

Copies of papers and records not re-
quired to be certified or otherwise
authenticated by commission, per
folio:

Arizona......15
California......10

Certified copies of official documents
and orders filed in office of commis-
sion, per folio:

Arizona......20
California......15

Every certificate under seal:

Arizona.....\$2.00
California.....1.00

Certifying a copy of any report made
by any corporation to commission. \$2.00
Each certified copy of annual report
of commission: •

Arizona.....3.00
California.....1.50

Certified copies of evidence and pro-
ceedings before commission, per
folio......15

Copies of papers, records or official
documents furnished to public offi-
cers for use in their official capacity
or annual reports of commission in
ordinary course of distribution..... free

Certificate authorizing issue of
bonds, notes, or other evidences of
indebtedness per thousand dollars
of the face value of authorized issue
or fraction thereof; up to one mil-
lion dollars.....1.00

MAINE

In all cases heard before commissioners expenses and costs attending same, including compensation of commissioners, shall be paid by corporation against which complaint is made if prayer of petitioners is granted; if prayer is
187 denied such expenses, costs and compensation shall be paid by petitioners. If a party against whom costs are so adjudged refuses or neglects to pay them within thirty days after such adjudication execution may issue therefor. *Rev. Stats. 1903, ch. 51, sec. 64.*¹

Every railroad shall pay to state treasurer in addition to all other taxes its proportional part of salary of clerks and salaries
188 and expenses of commissioners to be determined by state assessor according to gross transportation receipts of such railroad. *Rev. Stats. 1903, ch. 8, sec. 30.*²

MARYLAND

City of Baltimore shall pay salaries and compensations provided and prescribed to be paid by it. Sum of \$75,000 annually or so much thereof as may be necessary annually is appropriated for maintenance of commission and payment of all salaries of commission and for investigations and hearings and all its necessary and incidental expenses. *Laws 1910, ch. 180, secs. 2, 5.*

All fees charged and collected by commission shall belong to
140 state and become part of general funds, provided, however, that one-fourth of all such fees charged and collected as aforesaid shall be paid to the city of Baltimore. *Same, sec. 8.*

See also par. 2500.

MASSACHUSETTS All sums of money annually appropriated by general court for salaries and expenses of gas and electric light
141 commissioners and their clerks and employees shall be apportioned by commission among the gas and electric light utilities

One million dollars to ten million dollars..... .50
Over ten million dollars..... .25
Minimum fee:

Arizona..... 35.00
California..... \$250.00

When such issue is made for purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness up to the amount of the issue guaranteed, taken over, refunded, discharged, or retired..... free
Ariz.—Sess. Laws 1912, ch. 90, sec. 57; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 57.

for similar services. *Carroll's Stats. 1909, sec. 833.*

MARYLAND

Identical with California provision excepting fee for certified copies of evidence and proceedings before commission, which is twenty cents per folio, and omission of fees for bond, etc., certificates. *Laws 1910, ch. 180, sec. 8.*

MASSACHUSETTS Gas and Electric Commission.

For examining, comparing and testing meters with or without stamping them:

Each meter delivering not more than a cubic foot of gas in four revolutions, vibrations or complete repetitions of its action..... .25

KENTUCKY

For copy of any record on file in office commission... same fees that are charged by secretary of state

¹ Repealed by implication.

² Repealed by *Pub. Laws 1909.*

and all sums of money annually appropriated by general court for salaries and expenses of railroad commissioners and their clerks and employees shall be apportioned by commission among railroads and street railways; such apportionments shall be made according to the gross earnings of the respective utilities for the preceding year; and on or before July 1, each of said utilities shall be assessed its share of said sums in proportion to its gross earnings for year last preceding year in which assessment was made; such assessments shall be collected in same manner as taxes on corporations. *Acts 1909, ch. 490, pt. iii, sec. 9.*

142 All sums of money annually appropriated for additional salaries and expenses of highway commission shall be apportioned by tax commissioner among utilities engaged in business of transmission of intelligence by electricity; and on or before July 1, in each year he shall assess upon each of said utilities its share of such sums in proportion to its gross earnings for year last preceding year in which assessment is made; such assessment shall be collected in same manner as taxes upon corporations. *Acts 1906, ch. 433, sec. 3.*

143 All fees received by gas and electric light commissioners shall be paid into state treasury. *Acts 1909, ch. 318, sec. 1.*

144 Of amount so assessed and collected for maintenance of gas and electric commission and railroad commission any balance remaining at close of any year shall be carried forward to next year and be taken into account in making appropriation for that year. *Acts 1906, ch. 463, pt. i, sec. 4.*

See also pars. 2504, 2506, 2507.

Each meter so delivering more than a cubic foot..... .30
In addition for every additional cubic foot so delivered..... .20
For examining, comparing, testing or calibrating meter provers and testing photometer meters with or without sealing or certifying to same commission may charge as it deems fit. *Acts 1902, ch. 228, sec. 5, as amended by Acts 1909, ch. 483, sec. 7.*

MICHIGAN

Copies of papers and records not required to be certified or otherwise authenticated by commission, per folio..... .10
Certified copies of official documents and orders filed in office of commission, per folio..... .15
Certifying a copy of any report made by corporation to commission
Each certified copy of annual report of commission, certified copies of evidence and proceedings before the commission not required by this act to be furnished gratis, per folio.... .15

Copies of papers, records or official documents furnished to public officers in their official capacity or annual reports of commission in ordinary course of distribution..... free
Pub. Acts 1909, no. 300, sec. 21.

NEBRASKA

For furnishing transcripts secretary of commission. . . such amounts as are allowed by law on appeal from district court to supreme court. *Cobbe's Annot. Stats., sec 10650.*

NEW JERSEY

Certified copies of records, per folio. .10
Laws 1911, ch. 195, sec. 30.

NEW MEXICO

Copies of the testimony or the complete record for each 100 words or fraction thereof..... .10
Copies of any report, findings, decision or order of commission upon application to clerk by any party to a proceeding..... free
Laws 1912, ch. 78, sec. 10.

MICHIGAN All fees charged and collected by commission shall belong to the people and shall be paid into treasury to
 145 credit of general fund. *Pub. Acts 1909, no. 300, sec. 21.*
See also par. 3299.

MINNESOTA There is annually appropriated for use and purposes of commission \$30,000 or as much thereof as may be
 146 necessary. *Rev. Laws 1905, sec. 1957, as amended by Laws 1911, ch. 140.*

NEBRASKA Secretary shall turn fees into general fund
 147 provided for expenses of commission. *Cobbey's Annot. Stats. 1909, sec. 10650.*

NEW JERSEY Fees collected shall be paid into state treas-
 148 ury. *Laws 1911, ch. 195, sec. 30.*
See also par. 2514.

NEW MEXICO All fees required by law to be paid for filing of articles of incorporation, reports and other documents shall be
 149 collected by commission and paid into treasury. *Const., art. xi, sec. 6.*

All monies received for copies of papers and testimony
 150 shall be turned over to the state treasurer and credited to the commission contingent expense fund. *Laws 1912, ch. 78, sec. 10.*

NEW YORK Salaries and expenses of commission of first district other than salaries and expenses of commissioners,
 151 counsel and secretary shall be audited and paid as follows: *Laws 1910, ch. 480, sec. 14(1).*

The board of estimate and apportionment of city of New
 152 York or other board or public body authorized to make appropriations of public moneys for purposes of city government shall appropriate on requisition duly made by commission such sum of

NEW YORK

Identical with California provision excepting omission of fees for bond, etc., certificates and inclusion of following paragraph:

For publications issued under authority of commission, commission may fix reasonable charges. *Laws 1910, ch. 480, sec. 18.*

OHIO

Commission shall charge and collect for furnishing copy of any paper, record, testimony or writing the same fees now charged by secretary of state. Upon application of any person and payment of fee therefor commission shall furnish certified copies of any order made by it. *Laws 1911, no. 325, sec. 80.*

PENNSYLVANIA

Copies of papers and records not required to be certified or otherwise authenticated by commission, per folio of 100 words.....	.10
Certified copies of official documents filed in office of commission, per folio.....	.15
Every certificate under seal.....	1.00
Certified copies of a quarterly report made by a railroad to commission.....	.50
Each certified copy of evidence and proceedings before commission, per folio.....	.15
Copies of papers, records or official documents furnished to public officers for use in their official capacities or annual reports of commission in ordinary course of distribution.....	free

Laws 1907, no. 250, sec. 20.

money as may be requisite to enable it to perform its duties and to provide for its expenses and compensation of employees. *Same.*

If the board of estimate and apportionment or such other public body fail to appropriate such necessary amount commission may apply on notice to such board or body, to appellate division of supreme court in the first department to determine what amount shall be appropriated and the decision of appellate
153 division shall be final and conclusive. City shall not be liable for any indebtedness incurred by commission in excess of such appropriation or appropriations. The auditor and comptroller of city shall audit and pay proper expenses and compensations of employes of commission other than its counsel and secretary. For purpose of providing such sums comptroller or other chief financial officer of city is authorized and directed to issue and sell revenue bonds of the city in anticipation of receipt of taxes, and out of proceeds of such bonds to make the payments required. *Same.*

All fees collected by commission of first district shall belong
154 to city and shall be paid into city treasury to credit of general fund. *Same, sec. 18.*

All fees charged by commission of second district shall be-
155 long to people of state and shall be paid into state treasury to credit of general fund. *Same.*

See also pars. 2519, 2520.

NORTH CAROLINA All license fees, all moneys received from fines, penalties and seal tax and all other fees paid into office of com-
156 mission shall be paid into state treasury. *Pell's Revisal 1908, sec. 1114.*

NORTH DAKOTA The sum of \$10,000 is appropriated annually
157 to pay necessary traveling and other expenses of commission. *Laws 1911, ch. 240, sec. 5.*

All moneys which shall come into state treasury on account
158 of licenses of public grain warehouses shall be credited to general fund of state out of which expenses of commissioners and salaries and expenses of agents and employes shall be paid. *Same.*

Whenever a decree shall be entered against any railroad, carrier or person, court shall render a judgment for costs in-

RHODE ISLAND

For authenticated or certified copies of official documents, orders, papers and records commission shall charge reasonable fees. *Acts 1912, ch. 795, sec. 9.*

Copies of official documents, orders, papers and records furnished to public officers for use in their official capacity or annual reports of commission in ordinary course of distribution..... free
Same.

TENNESSEE

Identical with Kentucky provision. *Acts 1897, ch. 10, sec. 6.*

WASHINGTON

For copies of any classification, rates, rule, regulation or order not contained in printed reports, or copies of papers, accounts or records of public utilities filed with commission for proper use commission shall charge a reasonable compensation. *Laws 1911, ch. 117, sec. 103.*

- 159 cluding a reasonable attorney's fee for counsel representing state, and judgment shall be enforced by execution. *Rev. Codes 1905, sec. 4348.*

OHIO

- For purpose of maintaining department of public service commission of Ohio and the exercise of police supervision of railroads and public utilities by it, a sum not
160 exceeding \$75,000 each year shall be apportioned among and assessed upon railroads and public utilities by commission in proportion to their intrastate gross earnings or receipts for year next preceding that in which assessments are made. *Laws 1911, no. 325, sec. 1.*

- On or before August 1, next following, commission shall certify to state auditor amount of such assessment, apportioned
161 by it to each railroad and public utility, and he shall certify such amount to treasurer, who shall collect and pay same into treasury to credit of a special fund for maintenance of commission. *Same.*

- Railroads or telegraph companies violating provisions relating to assessments for maintenance of commission shall forfeit and pay to state \$1,000, and \$25 for each day such companies
162 fail to comply with requirements; forfeiture does not release companies from assessment. *Code 1910, sec. 607.*

See also pars. 1008, 2522, 2907, 2908.

OREGON

See pars. 1029, 2524, 2526.

PENNSYLVANIA

- All fees charged and collected by commission
163 shall be paid as received to treasurer for use of state. *Laws 1907, no. 250, sec. 20.*

RHODE ISLAND

- \$11,000 is annually appropriated for salaries
164 of commissioners. *Acts 1912, ch. 795, sec. 4.*

- All fees charged and collected by commission shall belong to
165 state and shall be paid into treasury and shall become part of general funds. *Same, sec. 9.*

See also par. 2529.

SOUTH CAROLINA

- All salaries and expenses of members, secretary and employees of railroad commission shall be borne by railroad, telegraph, telephone and express utilities according to their gross income, proportioned to number of miles to be apportioned by comptroller-general, who on or before October 1 shall assess annually upon each utility its just proportion of
166 expenses in proportion to its gross income for current year ending June 30 preceding that on which assessment is made; and assessment shall be charged up against utilities, respectively, under order and direction of comptroller-general and shall be collected and paid into state treasury by county treasurers in like manner as other taxes are collected and paid by them. *Gen. Stats. 1902, sec. 2066.*

167 Provided that comptroller shall be empowered and instructed to assess and collect from express and telegraph utilities, and that said utilities be required to pay, sum of \$500 to be apportioned between them according to their gross earnings and to pay same over to railroad commissioners as a contingent fund to be used by commissioners for purpose of organizing their new departments and informing themselves upon matters pertaining thereto. *Same, sec. 2221.*

168 Salaries and necessary expenses of public service commissioners shall be paid by firm, person or utility against whom complaint is made if rates charged are found to be unjust or excessive, but if otherwise such expenses shall be paid by authorities of city wherein complaint is made. *Laws 1910, no. 286, sec. 4.*

TENNESSEE Commission shall cover into state treasury
169 all fees received for copies of records. *Acts 1897, ch. 10, sec. 6.*

WASHINGTON *See par. 2535.*

WISCONSIN *See pars. 1050, 1052, 2537, 3281.*

N. SECRETARY OR CLERK OF COMMISSION.

1. *Manner of Appointment, Term, Qualifications, Bond, Oath, Salary.*

Manner of appointment, term of office, qualifications, bond and oath required and amount of salary of secretary or clerk are as follows:

170 **UNITED STATES, ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, CONNECTICUT, FLORIDA, GEORGIA, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, LOUISIANA, MARYLAND, MASSACHUSETTS** (Highway Commission), **MICHIGAN, MINNESOTA, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH DAKOTA, TENNESSEE, TEXAS, VERMONT, WASHINGTON** and **WISCONSIN**—secretary or clerk shall be appointed or employed by commission. *U. S.—Act to Regulate Commerce, sec. 18; Ala.—Code 1907, sec. 5640; Ariz.—Sess. Laws 1912, ch. 90, sec. 5; Ark.—Kirby's Digest 1904, sec. 6793; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 5; Conn.—Pub. Acts 1911, ch. 128, sec. 7; Fla.—Gen. Stats. 1906, sec. 2887; Ga.—Code 1911, sec. 2627; Ill.—Revisal 1909, ch. 114, sec. 170; Ind.—Acts 1907, ch. 241, sec. 2(a); Ia.—Code 1897, sec. 2111; Kan.—Gen. Stats. 1909, sec. 7183; Ky.—Carroll's Stats. 1909, sec. 822; La.—Const., art. 283; Md.—Laws 1910, ch. 180, sec. 2; Mass.—Rev. Laws 1902, ch. 47, sec. 1; Mich.—Pub. Acts 1909, no. 300, sec. 2(g); Minn.—Rev. Laws 1905, sec. 1957, as amended by Laws 1911, ch. 140; Mo.—Rev. Stats. 1909, sec. 3262; Mont.—Rev. Codes 1907, sec. 4367; Neb.—Cobbey's Annot. Stats. 1909, sec. 10650; Nev.—Stats. 1907, ch. 44, sec. 1(h), as amended by Stats. 1911, ch. 193; N. J.—Laws 1911, ch. 195, sec. 5; N. M.—Const., art. xi, sec. 4; N. C.—Pell's Revisal 1908, sec. 2754; N. D.—Rev. Codes 1905, sec. 364; Ohio—Laws 1911, no. 325, sec. 85; Okla.—Const., art. ix, sec. 18(a); Ore.—Gen. Laws 1907, ch. 53, sec. 5; Pa.—Laws 1907, no. 250, sec. 2; R. I.—Acts 1912, ch. 795, sec. 11; S. D.—Rev. Pol. Code 1903, sec. 190; Tenn.—Acts 1897, ch. 10, sec. 2; Tex.—Sayles' Civ. Stats. 1897, art. 4561(5); VI.—Pub. Stats. 1906, sec. 4594; Wash.—Laws 1911, ch. 117, sec. 4; Wis.—Laws 1907, ch. 582, sec. 1797-1(h); COLORADO—a member of commission shall be secretary. *Laws 1910, sp. sess., ch. 5, sec. 11; MAINE*—clerk shall be appointed by governor on recommendation of commission. *Rev. Stats. 1903, ch. 51, sec. 48, as amended by Pub. Laws 1909, ch. 141; MASSACHUSETTS (Gas and Electric Commission)—clerk shall be appointed by governor with advice and consent of council. *Rev. Laws 1902, ch. 121, sec.***

2; **MASSACHUSETTS** (Railroad Commission)—clerk shall be appointed by governor. *Acts 1906, ch. 463, pt. i, sec. 1*; **MISSISSIPPI**—secretary shall be appointed by commission by and with consent of senate for same term as commissioners. *Code 1906, sec. 4828*; **NORTH CAROLINA**—clerk shall be appointed for two years. *Pell's Revisal 1908, sec. 1063*; **PENNSYLVANIA**—secretary shall be appointed by commission subject to approval of governor. *Laws 1907, no. 250, sec. 2*.

IOWA, MICHIGAN and MONTANA—secretary shall possess same qualifications as are required of commissioners. *Ia.—Code 1897, sec. 2111; Mich.—Pub. Acts 1909, no. 300, sec. 2(h); Mont.—Rev. Codes 1907, sec. 4367*; **MINNESOTA**—secretary shall not be a member of commission. *Rev. Laws 1905, sec. 1957, as amended by Laws 1911, ch. 140*; **MISSISSIPPI**—secretary shall have same qualifications as commissioners and shall be subject to same disqualifications and to like penalties but shall not be liable to impeachment. *Code 1906, sec. 4828*; **KANSAS, MARYLAND, NEBRASKA, NEVADA, OHIO,**

171 **OREGON, RHODE ISLAND and WISCONSIN**—any person ineligible to office of commissioner shall be ineligible to office of secretary. *Kan.—Laws 1911, ch. 238, sec. 8; Md.—Laws 1910, ch. 180, sec. 7; Neb.—Cobbey's Annot. Stats. 1909, sec. 10650; Nev.—Stats. 1907, ch. 44, sec. 1(i), as amended by Stats. 1911, ch. 193; Ohio—Code 1910, sec. 495; Ore.—Gen. Laws 1907, ch. 53, sec. 6; R. I.—Acts 1912, ch. 795, sec. 4; Wis.—Laws 1905, ch. 362, sec. 1797-1(i); NEVADA—secretary shall be an expert rate man. *Stats. 1907, ch. 44, sec. 1 (h), as amended by Stats. 1911, ch. 193*; **NORTH CAROLINA**—clerk shall be an expert accountant experienced in railroad statistics and transportation rates. *Pell's Revisal 1908, sec. 1063*.*

ARIZONA, CALIFORNIA—secretary shall take usual oath of office. *Ariz.—Sess. Laws 1912, ch. 90, sec. 7; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 7*; **CONNECTICUT**—

secretary shall give bond in sum determined by commission. *Pub. Acts 1911, ch. 128, sec. 7*; **INDIANA**—secretary shall furnish bond of \$5,000 and shall take usual oath of office. *Acts 1907, ch. 241, sec. 2(a)*; **IOWA, KANSAS, MARYLAND, MICHIGAN, NEBRASKA, NEVADA, NORTH CAROLINA, OHIO, OREGON, PENNSYLVANIA and WISCONSIN**—secretary or clerk shall take same oath as required of commissioners. *Ia.—Code 1897, sec. 2111; Kan.—Laws 1911, ch. 238, sec. 8; Md.—Laws 1910, ch. 180, sec. 2; Mich.—Pub. Acts 1909, no. 300, sec. 2(h); Neb.—Cobbey's Annot. Stats. 1909, sec. 10650; Nev.—Stats. 1907, ch. 44, sec. 1(i), as amended by Stats. 1911, ch. 193; N. C.—Pell's Revisal 1908, sec. 1063; Ohio—Code 1910, sec. 495; Ore.—Gen. Laws 1907, ch. 53, sec. 6; Pa.—*

172 *Laws 1907, no. 250, sec. 4; Wis.—Laws 1905, ch. 362, sec. 1797-1(i)*; **MASSACHUSETTS** (Gas and Electric Commission)—clerk shall be sworn before entering upon duty. *Rev. Laws 1902, ch. 121, sec. 2*; **MINNESOTA**—secretary shall furnish bond of \$10,000 and take same oath as required of commissioners. *Rev. Laws 1905, sec. 1957, as amended by Laws 1911, ch. 140*; **MISSISSIPPI**—secretary shall take required oath. *Code 1906, sec. 4828*; **MONTANA**—secretary shall furnish bond of \$25,000. *Rev. Codes 1907, sec. 4364*; **RHODE ISLAND**—secretary shall be sworn to faithful performance of his duties and may be removed for violating any provisions of law. *Acts 1912, ch. 795, secs. 5, 11*; **VERMONT**—clerk shall furnish bond of \$1,000 and shall be sworn to faithful performance of his duties. *Pub. Stats. 1906, secs. 4594, 4595*; **WASHINGTON**—secretary shall take oath faithfully and impartially to discharge duties of his office. *Laws 1911, ch. 117, sec. 6*.

Salaries: **UNITED STATES**—\$5,000. *Act to Regulate Commerce, sec. 18*; **ALABAMA**—

not exceeding \$2,400. *Code 1907, sec. 5640*; **ARIZONA**—as fixed by law. *Sess. Laws 1912, ch. 90, sec. 10*; **ARKANSAS**—not exceeding \$1,500. *Kirby's Digest 1904, sec. 6793*;

CALIFORNIA—as fixed by law. *Stats. 1911, 1st ex. sess., ch. 14, sec. 10(a)*; **FLORIDA**—

not exceeding \$1,500. *Gen. Stats. 1906, sec. 2887, as amended 1907*; **GEORGIA**—\$2,000.

Code 1911, sec. 2627; **ILLINOIS**—\$3,500. *Revisal 1909, ch. 114, sec. 170*; **INDIANA**—

not more than \$2,500. *Acts 1907, ch. 241, sec. 2(a)*; **IOWA**—\$1,500. *Code 1897, sec. 2121*;

173 **KANSAS**—\$1,800. *Gen. Stats. 1909, sec. 7185*; **KENTUCKY**—\$1,200. *Carroll's Stats. 1909, sec. 822*; **LOUISIANA**—\$1,500. *Const., art. 283*; **MAINE**—\$1,500. *Rev. Stats. 1903, ch. 116, sec. 1*; **MARYLAND**—\$3,000. *Laws 1910, ch. 180, sec. 2*; **MASSACHU-**

SETTS¹ (Railroad Commission)—\$3,000. *Acts 1906, ch. 417, sec. 2*; **MICHIGAN**—

\$2,000. *Pub. Acts 1909, no. 300, sec. 2(g)*; **MISSISSIPPI**—\$1,800. *Laws 1908, ch. 48,*

sec. 1; **MISSOURI**—\$2,000. *Rev. Stats. 1909, sec. 3262*; **MONTANA**—\$3,000. *Rev.*

Codes 1907, sec. 4368; **NEBRASKA**—\$2,500; provided that commission may pay in the

aggregate to be apportioned as commission determines not more than \$6,000 to its secre-

tary and two clerks. *Cobbey's Annot. Stats. 1909, sec. 10650*; **NEVADA**—not more than

\$2,400. *Stats. 1907, ch. 44, sec. 1(h), as amended by Stats. 1911, ch. 193*; **NEW YORK**—

\$6,000. *Laws 1910, ch. 480, sec. 13*; **NORTH CAROLINA**—\$2,400 plus extra allowance

¹ Clerk of gas commission and clerk of highway commission, salaries not stated.

not exceeding \$300. *Pell's Revisal 1908, sec. 2754*; **NORTH DAKOTA**—\$2,000. *Laws 1909, ch. 195, sec. 1*; **OHIO**—not more than \$2,500. *Code 1910, sec. 404*; **OKLAHOMA**—\$2,000. *Sess. Laws 1908, ch. 18, art. 1, sec. 2*; **OREGON**—not more than \$2,000. *Gen. Laws 1907, ch. 53, sec. 5*; **PENNSYLVANIA**—\$4,000. *Laws 1907, no. 250, sec. 23*; **RHODE ISLAND**—\$3,000. *Acts 1912, ch. 795, sec. 11*; **SOUTH DAKOTA**—not more than \$1,500. *Rev. Pol. Code 1903, sec. 195, as amended by Sess. Laws 1907, ch. 208*; **TENNESSEE**—\$1,500 plus \$500 in lieu of traveling expenses. *Acts 1897, ch. 10, sec. 3, as amended by Acts 1907, ch. 390, sec. 1*; **TEXAS**—not more than \$2,000. *Sayles' Civ. Stats. 1897, art. 4561(5)*; **VERMONT**—salary fixed by commission with approval of governor. *Pub. Stats. 1906, sec. 6172, as amended by Laws 1908, no. 116, sec. 21*; **WASHINGTON**—\$2,000. *Laws 1911, ch. 117, sec. 4*; **WISCONSIN**—not more than \$2,500. *Laws 1907, ch. 582, sec. 1797-1(h)*.

2. General Duties and Powers.

ARKANSAS, ARIZONA, CALIFORNIA, ILLINOIS, INDIANA, MAINE, MARYLAND, MASSACHUSETTS,* MICHIGAN, MONTANA, NEBRASKA, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, OHIO, OREGON, PENNSYLVANIA, RHODE ISLAND, TENNESSEE, TEXAS, VERMONT, WASHINGTON, WISCONSIN

Secretary or clerk shall keep full and correct record of all transactions and proceedings of commission and shall perform such other duties as may be required. *Ariz.—Sess. Laws 1912, ch. 90, sec. 5*; *Ark.—Kirby's Digest 1904, sec. 6793*; *Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 5*; *Ill.—Revisal 1909, ch. 114, sec. 170*; *Ind.—Acts 1907, ch. 241, sec. 2(a)*; *Me.—Rev. Stats. 1903, ch. 51, sec. 48, as amended by Pub. Laws 1909, ch. 141*; *Md.—Laws 1910, ch. 180, sec. 2*; *Mass.—Rev. Laws 1902, ch. 121, sec. 2*. *Acts 1906, ch. 463, pt. i, sec. 1*; *Mich.—Pub. Acts 1909, no. 300, sec. 2(h)*; *Mont.—Rev. Codes 1907, sec. 4371*; *Neb.—Cobbey's Annot. Stats. 1909, sec. 10760*; *Nev.—Stats. 1907, ch. 44, sec. 1(i), as amended by Stats. 1911, ch. 193*; *N. J.—Laws 1911, ch. 195, sec. 6*; *N. M.—Const., art. xi, sec. 4*; *N. Y.—Laws 1910, ch. 480, sec. 7*; *Ohio—Code 1910, sec. 495*; *Ore.—Gen. Laws 1907, ch. 53, sec. 6*; *Pa.—Laws 1907, no. 250, sec. 2*; *R. I.—Acts 1912, ch. 795, sec. 11*; *Tenn.—Acts 1897, ch. 10, sec. 6*; *Tex.—Sayles' Civ. Stats. 1897, art. 4561(5)*; *Vt.—Pub. Stats. 1906, sec. 4595*; *Wash.—Laws 1911, ch. 117, sec. 4*; *Wis.—Laws 1905, ch. 362, sec. 1797-1(i)*.

Clerk of railroad commission keeps his records subject to the control of the commission in so far as is essential in the proper administration of justice in the proceedings before them. *Inhabitants of Newton vs. Board of Railroad Commissioners, 205 Mass. 94*.

3. Special Duties and Powers.

Special duties and powers of secretary or clerk follow:

ARIZONA—secretary shall also have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in any county, city or town of this state. *Sess. Laws 1912, ch. 90, sec. 5*; **ARKANSAS**—secretary shall administer all oaths and certify to all official acts done by commission. *Kirby's Digest 1904, sec. 6796*; **CALIFORNIA**—secretary shall issue all necessary processes, warrants, writs and notices. *Stats. 1911, 1st ex. sess., ch. 14, sec. 5*; **INDIANA**—secretary shall be the fiscal and disbursing agent of commission. *Acts 1907, ch. 241, sec. 2(a)*; **KANSAS**—secretary shall also be the rate clerk. *Gen. Stats. 1909, sec. 7173*; **MARYLAND, NEW**

* Gas and Electric Commission and Railroad Commission.

YORK and PENNSYLVANIA—secretary shall keep full and correct records of all books, maps and documents ordered filed and shall be responsible to commission for safe custody of same at office of commission, under direction of commission shall have general charge of office and superintend the clerical business, shall have power to administer oaths in all parts of state so far as the exercise of such power is properly incidental to the performance of his duties or of commission, and shall designate from time to time one of the clerks appointed by commission to perform his duties during his absence, and during such time the clerk so designated shall at the office possess the powers of secretary of commission. *Md.—Laws 1910, ch 180, sec. 2; N. Y.—Laws 1910, ch. 480, sec. 7; Pa.—Laws 1907, no. 250, sec. 2; MICHIGAN*—secretary shall devote his entire time to his office. *Pub. Acts 1909, no. 300, sec. 2(h); MINNESOTA*—secretary shall also act as registrar. *Rev. Laws 1905, sec. 1957, as amended by Laws 1911, ch. 140; MONTANA*—secretary shall be custodian of records and shall file and preserve at office of commission all books, maps and documents entrusted to his care and be responsible to commission for same. *Rev. Codes 1907, sec. 4371; NEVADA*—secretary of railroad commission shall act as secretary of public service commission. *Stats. 1911, ch. 162, sec. 2; NEW JERSEY*—secretary shall be official reporter of proceedings of commission. *Laws 1911, ch. 195, sec. 6; NORTH DAKOTA*—secretary shall devote his entire time to work of commission. *Laws 1909, ch. 195, sec. 1; PENNSYLVANIA*—secretary shall be chief executive officer. *Laws 1907, no. 250, sec. 2; RHODE ISLAND*—secretary shall be responsible to commission for safe custody and preservation of all documents and seal which he shall affix to all documents and orders as required, shall have general charge of office and superintend business and shall have power to administer oaths at any hearing or investigation conducted by commission. *Acts 1912, ch. 795, sec. 11; VERMONT*—clerk shall have custody of seal of commission, general charge of office, shall file and preserve in office all documents entrusted to his care, prepare such papers and notices as may be required, shall have all powers and discharge all duties incident to a clerk of court of record, shall have power under direction of commission to issue subpoenas for witnesses and to administer oaths in all cases before commission or pertaining to his duties, shall pay the debentures of witnesses in all cases before commission in behalf of or for the convenience or safety of public in the investigation of accidents and shall have office in state house. *Pub. Stats. 1906, sec. 4595.*

O. ATTORNEY OF COMMISSION.

I. *Manner of Appointment, Term, Qualifications, Oath, Manner of Removal and of Filling Vacancy, Salary.*

Manner of appointment, term of office, qualifications, oath required, manner of removal and of filling vacancy, and salary of attorney or counsel of commission are as follows:

UNITED STATES, CALIFORNIA, FLORIDA, KANSAS, LOUISIANA, MINNESOTA, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OREGON and WISCONSIN—attorney or counsel shall be appointed or employed by commission. *U. S.—Act to Regulate Commerce, sec. 16; Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 4; Fla.—Laws 1907, ch. 5620, sec. 1; Kan.—Laws 1911, ch. 238, sec. 7; La.—Stats. 1910, no. 263, sec. 4; Minn.—Rev. Laws 1905, sec. 1060; N. H.—Laws 1911, ch. 164, sec. 16(c); N. J.—Laws 1911, ch. 195, sec. 5; N. Y.—Laws 1910, ch. 480, sec. 6; N. C.—Pell's Revisal 1908, sec. 1110; N. D.—Rev. Codes 1905, sec. 370; Ore.—Gen. Laws 1907, ch. 53, sec. 57. Gen. Laws 1911, ch. 279, sec. 74; Wis.—Laws 1907, ch. 499, sec. 1797m-102(4); ALABAMA—special counsel may be employed by governor. *Acts 1907, sp. sess., no. 21, sec. 5; GEORGIA*—attorney to commission shall be appointed by governor. *Code 1911, sec. 2624; INDIANA*—counsel appointed by commission, appointment to be in writing and approved by governor. *Acts 1907, ch. 241, sec. 2(a); IOWA*—commerce counsel shall be appointed by commission subject to approval of two-thirds of senate in executive session. *Laws 1911, ch. 94, sec. 1; MARYLAND*—general counsel shall be appointed by governor upon recommendation of commission and shall be eligible for reappointment by governor. *Laws 1910, ch. 180, sec. 2; MONTANA*—special counsel shall be appointed by commission with consent and approval of attorney-general. *Rev. Codes 1907, sec. 4383; PENNSYLVANIA*—attorney shall be appointed by commission subject to approval of governor. *Laws 1907, no. 250, sec. 2.**

CALIFORNIA and NEW YORK—attorney or counsel shall serve during pleasure of commission. *Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 4; N. Y.—Laws 1910, ch. 480,*

sec. 6; **GEORGIA, IOWA**—term, four years and until successor is appointed and qualified.

177 **Ge.**—*Code 1911, sec. 2624; Ia.*—*Laws 1911, ch. 94, sec. 1; KANSAS*—term two years. *Laws 1911, ch. 238, sec. 7; MARYLAND*—term six years. *Laws 1910, ch. 180, sec. 2.*

IOWA—Commerce counsel shall be an attorney of Iowa, shall not be in employ of, own stock, bonds or property in any utility or have any pecuniary interest in any utility or business subject to jurisdiction of commission or interstate commerce commission, shall not after entering upon duties acquire any stock or other interest in any utility or business, shall not

178 engage in any other business, vocation or employment, be a member of any political committee, contribute to or take part in any political campaign. *Code 1907, sec. 2111. Laws 1911, ch. 94, sec. 1; KANSAS*—attorney shall have same qualifications as are required of commissioners and shall be subject to same disqualifications, and shall be sworn to perform faithfully the duties of his office. *Laws 1911, ch. 238, sec. 7; MARYLAND*—general counsel shall be subject to same disqualifications as commissioners. *Laws 1910, ch. 180, sec. 2.*

GEORGIA—attorney may be removed by governor at any time. *Code 1911, sec. 2624; IOWA*—commerce counsel may be removed by commission by and with consent of senate during a session of general assembly for malfeasance or nonfeasance in office or for any cause that renders him ineligible for appointment or incapable or unfit to discharge the duties of his office and removal when so made shall be final. Vacancy occurring in office of commerce counsel while general assembly is in session shall be filled by appointment by commission with approval of two-thirds of senate in executive session; if general assembly is not in session vacancy shall be filled by appointment by commission which appointment shall expire thirty days from time the next general assembly convenes. *Laws 1911, ch. 94, sec. 1; MARYLAND*—general counsel may be removed by governor for inefficiency, neglect of duty or misconduct in office. He shall be given a copy of the charges against him and an opportunity of being heard publicly in his own defence upon not less than ten days' notice. *Laws 1910, ch. 180, sec. 2.*

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Salaries: UNITED STATES—compensation of attorneys fixed by commission. *Act to Regulate Commerce, sec. 18; ALABAMA*—salary fixed by agreement between governor and special counsel. *Acts 1907, sp. sess., no. 21, sec. 5; CALIFORNIA*—salary as fixed by law. *Stats. 1911, 1st ex. sess., ch. 14, sec. 10(a); FLORIDA*—such compensation as commission deems proper. *Laws 1907, ch. 5620, sec. 1; GEORGIA*—\$2,500. *Code 1911, sec. 2624; INDIANA*—salary fixed by commission and approved by governor. *Acts 1907, ch. 241, sec. 2(a); IOWA*—\$5,000. *Laws 1911, ch. 94, sec. 3; KANSAS*—\$2,500. *Laws 1911, ch. 238, sec. 7; LOUISIANA*—not exceeding 25% of all fines and forfeitures collected by him. *Const. art. 288, as amended by Stats. 1907, no. 15; MARYLAND*—\$3,000 and in addition \$1,800 paid by city of Baltimore. *Laws 1910, ch. 180, sec. 2; MONTANA*—compensation of special counsel fixed and determined by state board of examiners. *Rev. Codes 1907, sec. 4383; NEW HAMPSHIRE*—reasonable attorney's fees. *Laws 1911, ch. 164, sec. 16(c); NEW JERSEY*—fixed by commission. *Laws 1911, ch. 195, sec. 5; NEW YORK*—\$10,000. *Laws 1910, ch. 480, sec. 13; NORTH CAROLINA*—at compensation to be agreed upon. *Pell's Revisal, 1908, sec. 1110; NORTH DAKOTA*—at compensation determined by governor. *Rev. Codes 1905, sec. 370; OREGON*—compensation fixed by commission. *Gen. Laws 1907, ch. 53, sec. 57. Gen. Laws 1911, ch. 279, sec. 74; PENNSYLVANIA*—\$4,000. *Laws 1907, no. 250, sec. 23.*

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2. Attorney General as Attorney of Commission.

UNITED STATES, ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, FLORIDA, GEORGIA, ILLINOIS, IOWA, KANSAS, KENTUCKY, LOUISIANA, MASSACHUSETTS,¹ MICHIGAN, MINNESOTA, MONTANA, NEVADA, NEW HAMPSHIRE, NEW MEXICO, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, RHODE ISLAND, SOUTH DAKOTA, WASHINGTON, WISCONSIN

Attorney general shall be attorney of commission.² *U. S.—Act*

181 *to Regulate Commerce, sec. 12; Ala.—Acts 1907, sp. sess., no. 21,*

¹ Railroad Commission.

² **FLORIDA**—attorney general shall not require other fees than he now receives by law. *Gen. Stats. 1906, sec. 3909; LOUISIANA*—attorney general shall receive not exceeding 25 % of all fines and forfeitures collected by him.—*Const., art. 288, as amended by Stats. 1907, no. 15.*

sec. 5; *Ariz.*—Sess. Laws 1912, ch. 90, sec. 4; *Ark.*—Acts 1907, no. 422, sec. 5; *Cal.*—Stats. 1911, 1st ex. sess., ch. 14, sec. 72; *Col.*—Laws 1910, sp. sess., ch. 5, sec. 12; *Fla.*—Gen. Stats. 1906, sec. 2898; *Ga.*—Code 1911, sec. 2648; *Ill.*—Revisal 1909, ch. 114, sec. 183; *Ia.*—Code 1897, sec. 2120(c); *Kan.*—Gen. Stats. 1909, sec. 7172; *Ky.*—Carroll's Stats. 1909, sec. 826; *La.*—Const., art. 288, as amended by Stats. 1907, no. 15; *Mass.*—Acts 1911, ch. 755, sec. 5; *Mich.*—Pub. Acts 1909, no. 300, sec. 41; *Minn.*—Rev. Laws 1905, sec. 1960; *Mont.*—Rev. Codes 1907, sec. 4397; *Nev.*—Stats. 1911, ch. 162, sec. 24; *N. H.*—Laws 1911, ch. 164, sec. 16(a); *N. M.*—Const., art. xi, sec. 4; *N. D.*—Rev. Codes 1905, sec. 4347; *Ohio*—Code 1910, sec. 577; *Okl.*—Sess. Laws 1908, ch. 18, art. iii, sec. 9; *Ore.*—Gen. Laws 1907, ch. 53, sec. 57. Gen. Laws 1911, ch. 279, sec. 74; *R. I.*—Acts 1912, ch. 795, sec. 31; *S. D.*—Rev. Pol. Code 1903, sec. 499; *Wash.*—Laws 1911, ch. 117, sec. 5; *Wis.*—Laws 1905, ch. 362, sec. 1797-31. Laws 1907, ch. 499, sec. 1797m-102(2).

3. State's Attorney as Attorney of Commission.

UNITED STATES, CALIFORNIA, COLORADO, FLORIDA, ILLINOIS, LOUISIANA, MICHIGAN, MINNESOTA, MONTANA, NORTH DAKOTA, OHIO, OREGON, SOUTH DAKOTA, WISCONSIN

State's attorney of county in which suit is instituted, prosecuted or defended by commission shall be attorney of commission in such county.³ *U. S.*—Act to Regulate Commerce, sec. 12; *Cal.*—Stats. 1911, 1st ex. sess., ch. 14, sec. 72; *Col.*—Laws 1910, sp. sess., ch. 5, sec. 12; *Fla.*—Laws 1907, ch. 5620, sec. 1; *Ill.*—Revisal 1909, ch. 114, sec. 183; *La.*—Const., art. 288, as amended by Stats. 1907, no. 15; *Mich.*—Pub. Acts 1909, no. 300, sec. 41, *Minn.*—Rev. Laws 1905, sec. 1960; *Mont.*—Rev. Codes 1907, sec. 4383; *Nev.*—Stats. 1911, ch. 162, sec. 24; *N. D.*—Rev. Codes 1905, sec. 4358; *Ohio*—Code 1910, sec. 577; *Ore.*—Gen. Laws 1907, ch. 53, sec. 57. Gen. Laws 1911, ch. 279, sec. 74; *S. D.*—Sess. Laws 1911, ch. 207, sec. 19; *Wis.*—Laws 1905, ch. 362, sec. 1797-31. Laws 1907, ch. 499, sec. 1797m-102(2).

4. General Duties and Powers of Attorney.

ALABAMA, CALIFORNIA, FLORIDA, KANSAS, MARYLAND, NEW HAMPSHIRE, NEW YORK

Attorney or counsel shall represent commission and people of state in all actions and proceedings, shall prosecute and defend and if so directed shall intervene in actions to which commission may be party, shall advise commission and commissioners and generally shall perform all duties which may be required. *Ala.*—Acts 1907, sp. sess., no.

³ Salaries: **FLORIDA**—state's attorney shall not require other fees than he now receives by law. Gen. Stats. 1906, sec. 2909; **LOUISIANA**—state's attorney shall receive not exceeding 25 per cent of all fines and forfeitures collected by him. Const., art. 288, as amended by Stats. 1907, no. 15.

21, sec. 5; Cal.—*Stats. 1911, 1st ex. sess., ch. 14, sec. 72*; Fla.—*Laws 1907, ch. 5620, sec. 1*; Kan.—*Gen. Stats. 1909, sec. 7182*; Md.—*Laws 1910, ch. 180, sec. 6, as amended by Laws 1912, ch. 563*; N. H.—*Laws 1911, ch. 164, sec. 16(c)*; N. Y.—*Laws 1910, ch. 480, sec. 12*.

5. Special Duties and Powers of Attorney.

Special duties and powers of attorney and counsel are as follows:

UNITED STATES—attorneys shall appear for and represent commission in commerce court. *Act to Regulate Commerce, sec. 16*; **ALABAMA**—special counsel shall assist attorney general. *Acts 1907, sp. sess., no. 21, sec. 4*; **ILLINOIS**—special counsel shall assist attorney general. *Revisal 1909, ch. 114, sec. 130*; **IOWA**—commerce counsel shall investigate reasonableness of rates charged or services rendered by utilities and reasonableness of rates, charges, rules and practices of interstate carriers. Whenever directed by commission or whenever in his own judgment any rates, charges, rules or practices are undue, unjust, unreasonable, unlawful, unduly prejudicial or unjustly discriminatory against any citizens or industries of Iowa he shall institute proceedings relative to said matters and prosecute the same before commission. If they concern interstate transportation he shall assist commission when directed in the prosecution of cases involving said matters before the interstate commerce commission. He may appoint and remove subject to approval of commission assistants, stenographers and rate clerks at compensation fixed by commission. *Laws 1911, ch. 94, sec. 5*; **KANSAS**—attorney shall defend and prosecute all proceedings on behalf of parties complaining of unjust discriminations or of other violations of law, shall when circumstances warrant make a complaint to commission in name of the state on his relation, whereupon commission shall consider and determine such complaint, shall appoint a stenographer at \$1,200, and shall make a special study of the railroad laws of Kansas and other states and the interstate commerce acts. *Laws 1911, ch. 238, sec. 7*; **MARYLAND**—whenever complaint is made to commission concerning any matter or thing done, permitted, maintained or omitted to be done by any utility with respect to any of the requirements imposed by the public service commission law, any other law, charter, franchise or ordinance or any order of this commission or otherwise, general counsel shall in person or through an assistant whenever commission shall so direct upon a prima facie case or otherwise or when there shall appear to commission to be any reasonable ground for investigating such application, complaint or protest, participate in the preparation or reforming of pleadings of commission if need be or investigate or further investigate the facts or evidence upon which the application, complaint or protest is based or may be based. He shall appear before commission in respect to investigations or in support of applications or complaints by and in behalf of or in the interest of the public or in defense of public interest when involved and subject to order of commission. He may appoint an assistant at \$3,000 who shall be a member of the bar of Maryland, and may if governor deems necessary employ other attorneys as additional assistants at such special compensation as general counsel with written approval of governor may prescribe. He may employ a stenographer at \$1,500, and assistant stenographers at salaries ascertained in manner prescribed for ascertainment of compensation of general employees of commission, and may avail himself of the services of experts employed by commission as well as the records and other facilities of commission. *Laws 1910, ch. 180, secs. 2, 6 (as amended by Laws 1912, ch. 563)*; **MINNESOTA**—counsel shall assist attorney general; *Rev. Laws 1905, sec. 1960*; **MONTANA**—special counsel shall assist in any proceeding instituted. *Rev. Codes 1907, sec. 4383*; **NEW YORK**—counsel may appoint and remove subject to approval of commission attorneys and counsellors at law to assist him and also shall employ and remove stenographers and process servers whose compensation shall be fixed by commission. *Laws 1910, ch. 480, sec. 6*; **NORTH DAKOTA**—counsel shall assist attorney general and state's attorney. *Rev. Codes 1905, sec. 4348*; **PENNSYLVANIA**—attorney shall attend hearings of commission, conduct the examination of witnesses upon request of commission, and assist attorney general in all actions brought by him incidental to the recommendation and ruling of commission. *Laws 1907, no. 250, sec. 2*; **WISCONSIN**—counsel shall be attorney in any proceeding or trial. *Laws 1907, ch. 499, sec. 1797m-102(4)*.

6. *General Duties and Powers of Attorney General.*

ALABAMA, ARIZONA, ARKANSAS, FLORIDA, ILLINOIS, IOWA, KANSAS, MASSACHUSETTS,¹ MICHIGAN, MINNESOTA, MONTANA, NEVADA, NEW MEXICO, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, RHODE ISLAND, SOUTH DAKOTA, WASHINGTON, WISCONSIN

Attorney general shall institute, prosecute and defend all actions whenever requested by commission and shall aid and advise commission generally. *Ala.—Acts 1907, sp. sess., no. 21, sec. 5, Ariz.—Sess. Laws 1912, ch. 90, sec. 4; Ark.—Acts 1907, no. 422, sec. 5; Fla.—Gen. Stats. 1906, sec. 2921; Ill.—Revisal 1909, ch. 114, sec. 183; Ia.—Code 1897, sec. 2120(c);*
185 *Kan.—Gen. Stats. 1909, sec. 7172; Mass.—Acts 1911, ch. 755, sec. 5; Mich.—Pub. Acts 1909, no. 300, sec. 41; Minn.—Rev. Laws 1905, sec. 1960; Mont.—Rev. Codes 1907, sec. 4387; Nev.—Stats. 1911, ch. 162, sec. 24; N. M.—Const., art. xi, sec. 4; N. D.—Rev. Codes 1905, sec. 4397; Ohio—Code 1910, sec. 577; Okla.—Sess. Laws 1908, ch. 18, art. iii, sec. 9; Ore.—Gen. Laws 1907, ch. 53, sec. 57. Gen. Laws 1911, ch. 279, sec. 74; R. I.—Acts 1912, ch. 795, sec. 31; S. D.—Sess. Laws 1907, ch. 210, sec. 1. Sess. Laws 1911, ch. 207, sec. 19; Wash.—Laws 1911, ch. 117, sec. 93; Wis.—Laws 1905, ch. 362, sec. 1797-31. Laws 1907, ch. 499, sec. 1797m-102(2).*

7. *Other Duties and Powers of Attorney General.*

Other duties and powers of attorney general are as follows:

ARKANSAS, FLORIDA, GEORGIA and IOWA—attorney general shall upon request represent commission before interstate commerce commission. *Ark.—Acts 1907, no. 422, sec. 5; Fla.—Gen. Stats. 1906, sec. 2898; Ga.—Code 1911, sec. 2648; Ia.—Code 1897, sec. 2120c; LOUISIANA*—assistant attorney general shall attend the sessions of commission and assist parties complainant before commission. *Stats. 1910, no. 263, sec. 4; MASSACHUSETTS (Railroad Commission)*—attorney general shall appear before commission in any matter either upon his own motion or at request of any individual when in his opinion or in opinion of commission the interest of the commonwealth or public demands. *Acts 1911, ch. 755, sec. 5; MICHIGAN*—attorney general shall prosecute all necessary proceedings for enforcement of laws relating to carriers and for punishment of violations thereof. *Pub. Acts 1909, no. 300, sec. 41; NORTH CAROLINA*—upon application attorney
186 general shall represent commission before interstate commerce commission. *Pell's Revisal 1908, sec. 1110; NORTH DAKOTA*—attorney general shall whenever petition shall be filed or presented or be prosecuted by commission or by its direction prosecute the same and in such prosecution shall have the right to have the assistance of the state's attorney of county in which such proceedings are instituted, and may employ an attorney to assist in any proceeding brought at amount to be approved by attorney general and commission. *Rev. Codes 1905, sec. 4361; OHIO*—attorney general shall institute and prosecute necessary actions or proceedings for the enforcement of laws relating to railroads and for punishment of all violations of law. *Code 1910, sec. 577; OKLAHOMA*—attorney general or other person as may be designated by law shall represent commission in all matters before interstate commerce commission. *Const., art. ix, sec. 32; RHODE ISLAND*—attorney general shall intervene in any action or proceeding in which any question is involved. *Acts 1912, ch. 795, sec. 10; SOUTH DAKOTA*²—attorney general shall render to commission all counsel, advice and opinions in writing when requested; commission shall not employ

¹ Railroad Commission.

² It is unlawful for commission to delegate any of the powers conferred upon it, or the performance of the duties imposed upon it by law, to any other person except in cases where express authority has been given. *Sess. Laws 1907, ch. 210, sec. 2.*

other counsel. *Sess. Laws 1907, ch. 210, sec. 1. Sess. Laws 1911, ch. 207, sec. 44; VIRGINIA*—attorney general shall represent commission before interstate commerce commission. *Pollard's Code 1904, sec. 1294c(1); WASHINGTON*—attorney general shall see that all laws the enforcement of which devolves upon commission are enforced and to that end may institute, prosecute and defend all necessary actions and proceedings. *Laws 1911, ch. 117, sec. 5.*

8. Duties and Powers of State's Attorney.

UNITED STATES, FLORIDA, MICHIGAN, MINNESOTA, MONTANA, NORTH DAKOTA, OHIO, OREGON, SOUTH DAKOTA, WISCONSIN

State's attorney of any county in which action is pending shall upon request represent and aid commission and prosecute and defend all actions to which commission may be party. *U. S.—Act to Regulate Commerce, sec. 12; Fla.—Laws 1907, ch. 5620, sec. 2; Mich.—Pub. Acts 1909, no. 300, sec. 41; Minn.—Rev. Laws 1905, sec. 1960; Mont.—Rev. Codes 1907, sec. 4387; N. D.—Rev. Codes 1905, sec. 4397; Ohio—Code 1910, sec. 577; Ore.—Gen. Laws 1907, ch. 53, sec. 57; Gen. Laws 1911, ch. 279, sec. 74; S. D.—Rev. Pol. Code 1903, sec. 499; Wis.—Laws 1905, ch. 362, sec. 1797-31. Laws 1907, ch. 499, sec. 1797m-102(2).*

P. EMPLOYES AND APPOINTEES OF COMMISSION.

Classes, Qualifications, Number, Length, of Term, Salaries, Duties, and Powers.

UNITED STATES Necessary employees; special agents or examiners who may administer oaths, examine witnesses and receive evidence. Compensation of employees is fixed by commission. *Act to Regulate Commerce, secs. 18, 20.*

ALABAMA Stenographer at not exceeding \$1,200; necessary experts at not exceeding \$5,000 in the aggregate. *Code 1907, sec. 5640.*

Special agents, examiners or employees designated or employed by commission may administer oaths, examine witnesses and receive evidence. *Code 1907, sec. 5640. Acts 1907, sp. sess., no. 17, sec. 3.*

ARIZONA Necessary officers, experts, engineers, statisticians, accountants, inspectors, clerks and employees at compensation fixed by commission to serve during pleasure of commission. No person pecuniarily interested in any utility under jurisdiction of commission shall be appointed or employed by commission. Each person appointed to a civil executive office shall take the constitutional oath of office. *Sess. Laws 1912, ch. 90, sess. 6, 7, 10.*

ARKANSAS Stenographer at not exceeding \$1,000; experts when necessary at salary fixed by commission. *Kirby's Digest 1904, sec. 6793.*

CALIFORNIA

Assistant secretary at salary fixed by law who shall take and subscribe to constitutional oath of office and shall have all powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other processes; necessary officers, experts, engineers, statisticians, accountants, 193 inspectors, clerks and employes at compensation fixed by commission to serve during pleasure of commission. No person pecuniarily interested in any utility under jurisdiction of commission shall be appointed or employed by commission. Each person appointed to a civil executive office shall take the constitutional oath of office. *Stats. 1911, 1st ex. sess., ch. 14, secs. 5-7, 10(a).*

COLORADO

Assistant secretary at \$2,500; stenographer 194 at \$2,100; other necessary help within limits of appropriation. *Laws 1910, sp. sess., ch. 5, sec. 18.*

CONNECTICUT

Necessary accountants, clerical assistants, engineers, inspectors and agents at compensation determined by 195 commission. No employes of any public utility shall be employed by commission. *Pub. Acts 1911, ch. 128, sec. 7.*

FLORIDA

Competent inspector at compensation fixed by commissioners who shall inspect the physical condition of the road bed, rights of way, depot, rolling stock and other fixtures 196 and equipment of any railroad in Florida, shall inspect and make estimates on the cost of producing the same and shall report in writing the results of his inspection, investigation and estimations to commissioners at such times and in such manner as they shall direct. *Laws 1907, ch. 5622, sec. 1.*

GEORGIA

One or more rate experts at not exceeding \$4,000 in the aggregate; stenographer at not exceeding \$1,200; 197 necessary experts to ascertain cost of construction and present value of railroad properties. *Code 1911, sec. 2623. Acts 1907, no. 223, sec. 15.*

ILLINOIS

Necessary employes at compensation fixed by commission; inspector of safety appliances for two years and until successor is appointed and qualified at \$1,500 and expenses not exceeding \$1,000 a year, who shall not be employed by or interested in any railroad, and shall have had at least seven years 198 of railroad experience in Illinois in one or more of following capacities: Engineer, fireman, conductor, yardmaster, brakeman, train baggageman, switchman, car inspector or repairer. He shall furnish bond in sum of \$3,000, take usual oath of office, have his office in same place as commission and be under supervision of commission. *Revisal 1909, ch. 114, secs. 170, 237-239.*

Commission may remove upon complaint for cause, reappoint or reduce number of employes and appointees. 199 *Same, sec. 146(10).*

INDIANA Clerk at not exceeding \$1,500 who shall take usual oath of office; necessary employes, competent railroad inspectors, experts or engineers at salaries approved by governor, whose appointments shall be made in writing and approved by governor. *Acts 1907, ch. 241, sec. 2(a).*

IOWA Necessary clerical help; assistants, stenographers and rate clerk at compensation fixed by commissioners. *Code 1897, sec. 2111. Laws 1911, ch. 94, sec. 3.*

KANSAS Stenographer at \$1,000; stenographer at \$900; two clerks at \$900 each; rate expert who shall have had at least seven years' experience in railroad traffic and rate making, shall not be directly or indirectly interested in the stock or bonds of any railroad and shall take an oath faithfully and to the best of his ability to perform and discharge his duties; necessary extra accountants, engineers, rate experts and special assistants appointed subject to approval of governor at compensation fixed by commission; necessary experts to assist in ascertaining cost of construction of railroads. No person related by blood or marriage to any commissioner shall be employed or appointed. *Gen. Stats. 1909, sec. 7183. Laws 1911, ch. 238, sec. 8.*

KENTUCKY Stenographer at \$1,200; rate clerk at \$1,800. *Carroll's Stats. 1909, sec. 822.*

MAINE Mechanical expert; assistant clerk at \$1,200 appointed by governor on recommendation of commission who shall assist clerk in performing his duties and in absence of clerk shall have same powers as clerk. *Rev. Stats. 1903, ch. 51, sec. 48, as amended by Pub. Laws 1909, ch. 141; ch. 116, sec. 1.*

MARYLAND Necessary officers, clerks, stenographers, typewriters, inspectors, experts and employes appointed subject to approval in writing of governor at compensation fixed by commission and certified to and approved in writing by the governor, each of which employes shall take and subscribe to constitutional oath of office, and shall be subject to same disqualifications as commissioners. *Laws 1910, ch. 180, sec. 2.*

If in any case commission cannot ascertain in advance the value of any service to be rendered to it or the proper compensation to be paid therefor, it shall certify such facts to governor who may authorize appointment or acquisition of the service in question, leaving value or compensation to be ascertained by subsequent agreement or adjustment. *Same.*

See also par. 630.

MASSACHUSETTS Gas and electric commission: One or more deputy inspectors of meters at compensation fixed by commission for a period not exceeding one year but total amount of compensation and expenses shall not exceed \$3,000 a year, who shall be sworn, shall act under the direction of commission and shall

207 not be connected with or employed by any gas company. From decisions of such deputy inspectors a gas utility or consumer may appeal to commission. Such deputy inspectors may enter any premises where the meter to be inspected is placed for the purpose of making the inspection. *Rev. Laws 1902, ch. 121, sec. 37. Acts 1902, ch. 228, secs. 4, as amended by Acts 1909, ch. 483, sec. 6.*

208 Gas and electric commission shall designate one of its members to receive all fees, who shall give bond in sum of \$5,000. *Acts 1902, ch. 228, sec. 5, as amended by Acts 1909, ch. 483, sec. 7.*

Railroad commission: Assistant clerk at not more than \$1,800 who shall be sworn before entering upon duties and who shall perform such clerical and other office work as commission may require and perform duties of clerk in his absence or during his disability if so directed by commission; accountant skilled in methods of railroad accounting at not more than \$5,000 who under the direction of commission shall supervise the methods by which accounts of railroads or street railways are kept; not more than 209 one inspector for every 1,000 miles of road track at \$2,000 each, appointed for three years and removable for cause by commission; one or more experts to examine reports thoroughly; experts in connection with any proposed issue of stock or bonds by a railroad or street railway, who shall investigate character, cost and value for railroad purposes of property of such railroad or street railway; experts and assistants in discretion of commission, who shall examine into rates, facilities and financial condition of any carrier. *Acts 1906, ch. 417, sec. 2. Acts 1906, ch. 463, pt. i, secs. 1, 2.*

210 Highway commission: Clerks and engineers at compensation appropriated annually by general court. *Rev. Laws 1902, ch. 47, sec. 1.*

MICHIGAN

Chief clerk at not more than \$1,500; not more than five clerks and necessary examiners, experts and inspectors at compensation fixed by commission; chief inspecting engineer 211 at not exceeding \$2,000 who shall have general knowledge of the requirements of railroad operation, signal appliances and safety devices. *Pub. Acts 1909, no. 300, secs. 2(g), 2(i).*

On order of commission and in their own right inspectors shall inspect all equipment, cars, power houses, trolley lines, tracks and property of every common carrier and may inspect freight 212 in cars or warehouses of such carriers and all waybills, bills of lading and shipping receipts to determine whether classification and rating of freight conforms with published tariffs and classification. *Same, 2(g).*

Under instructions of commission chief inspecting engineer shall make such inspections and reports regarding public safety, health and convenience as may be ordered and deemed essential 213 by commission to full and thorough information as to physical condition of the various common carriers and proper enforcement

of police regulations enacted for control and management thereof.
Same, sec. 2 (i).

MINNESOTA Necessary additional help at compensation
214 fixed by commission. *Rev. Laws 1905, sec. 1957, as amended by
Laws 1911, ch. 140.*

Commission shall provide for necessary examinations to
215 determine qualifications and fitness of appointees. *Laws 1911,
ch. 156, sec. 2.*

MONTANA Necessary stenographers at not exceeding
\$1,200; inspectors, experts and other persons. Each person ap-
216 pointed to office shall take and subscribe to constitutional oath of
office. *Rev. Codes 1907, secs. 4367, 4368.*

NEBRASKA Not more than two clerks at not exceeding
\$1,200 each, at least one of whom shall be an expert stenographer
217 and typewriter; necessary experts. *Cobbey's Annot. Stats. 1909,
sec. 10650.*
See also pars. 650, 654.

NEVADA Necessary clerks, experts and assistants at
compensation fixed by commission who may be removed by com-
mission and shall perform any service commission may require;
218 expert engineer at \$3,600 and necessary traveling expenses,
whom commission may remove whenever his services shall be un-
satisfactory. *Stats. 1907, ch. 44, sec. 1(h), as amended by Stats.
1911, ch. 193. Stats. 1911, ch. 162, sec. 16.*

NEW HAMPSHIRE Necessary stenographers, experts, account-
ants, without approval of governor and council at not more than
219 \$4,000 in aggregate, and with such approval further sums as may
be necessary. *Laws 1911, ch. 164, sec. 2(f).*

NEW JERSEY Necessary employes, terms, salaries and
220 duties being fixed by commission. *Laws 1911, ch. 195, sec. 5.*

NEW MEXICO Officers, assistants and subordinates, subject
221 to removal by commission. *Const., art. xi, sec. 4.*

NEW YORK Necessary officers, clerks, inspectors, experts
and employes at compensations fixed by commission; state in-
spector of locomotive boilers at not exceeding \$3,000, who shall
inspect under direction of commission of second district boilers
222 of steam railroad locomotives and may cause the same to be
tested by hydrostatic test and shall perform such other duties in
connection therewith as commission shall direct. Each person
appointed by commission shall take the constitutional oath of
office. *Laws 1910, ch. 480, secs. 9, 13; ch. 481, sec. 73.*

NORTH CAROLINA Necessary clerks at not exceeding \$1,500 in
223 the aggregate; chief clerk to tax commission at \$1,500; second

clerk to corporation commission at \$1,200. *Pell's Revisal 1908, sec. 2754.*

NORTH DAKOTA .One stenographer when necessary; necessary
224 stenographers, rate experts and other employees. *Laws 1911, ch. 240, sec. 4.*

OHIO Three clerks, one at not exceeding \$1,200 who shall be an expert stenographer, and two at not exceeding \$1,000 each; necessary experts, assistants, clerks, accountants and examiners at compensation fixed by commission; inspectors at compensation fixed by commission who may inspect freight in cars or warehouses, waybills, bills of lading and shipping receipts of transportation companies; competent inspector of locomotive
225 boilers at not exceeding \$180 per month who, under direction of commission shall have charge of inspection of boilers and their appurtenances and of steam railroad locomotives, and who shall perform such other duties as commission may direct. All appointments and salaries shall first be approved by governor. *Code 1910, sec. 494. Laws 1910, H. B. no. 184, sec. 6. Laws 1911, no. 325, sec. 85.*

OKLAHOMA Corporation record clerk at \$2,200; expert accountant and rate clerk at \$2,500; official stenographer at \$1,200,
226 stenographer at \$900; marshal at \$1,500; necessary experts to assist in ascertaining the valuation of railroads. *Const., art. ix, sec. 29. Sess. Laws 1908, ch. 18, art. i, sec. 2.*

OREGON Expert stenographer at not exceeding \$1,200; necessary expert help at compensation fixed by commission; necessary engineers, examiners, experts, clerks, accountants, inspectors and other assistants at compensation determined by
227 commission; necessary examiner or agent who shall have every power of an inquisitorial nature granted to commission and same powers as a notary public in taking depositions, and who may undertake or hold any investigation or hearing which commission has power to undertake. *Gen. Laws 1907, ch. 53, sec. 5. Gen. Laws 1911, ch. 279, secs. 38, 39.*

PENNSYLVANIA Marshal appointed subject to approval of governor at \$2,500 who shall attend hearings of commission, serve papers and perform other duties as required by commission; accountant serving during pleasure of commission who shall be thoroughly skilled in railroad accounts and under direction of commission shall examine books and accounts of common carriers, supervise quarterly and annual reports made by them to
228 commission and perform other duties prescribed by commission; two inspectors, one a civil engineer skilled in railroad affairs, and one an expert in electrical affairs, each of whom shall make inspections directed by commission; necessary engineers, accountants, clerks and experts at compensation fixed by commission.

Each person appointed by commission shall take constitutional oath of office. *Laws 1907, no. 250, secs. 2-4.*

See also par 677.

RHODE ISLAND Necessary clerks, stenographers, accountants and agents at compensation fixed by commission; one or more
229 agents who shall make investigations in relation to any public utility and report thereon to commission. *Acts 1912, ch. 795, sec. 12.*

SOUTH DAKOTA Necessary assistants who shall investigate thoroughly all complaints, inspect all lines and exchanges, investigate any facts and conditions to be considered in rendering a decision upon complaint, have power to subpoena witnesses, administer oaths, take testimony, require the production and examination of all books, papers, contracts and agreements relating to the
230 business or property of a telephone utility and report on evidence so collected to commission, all evidence collected by whom shall have same force and effect as if collected by commissioners; necessary experts and other assistants to properly ascertain and determine the true cash value of railway property. *Sess. Laws 1907, ch. 211, sec. 3. Sess. Laws 1909, ch. 289, sec. 12, as amended by Sess. Laws 1911, ch. 218, sec. 8.*

TEXAS Not more than two clerks at not exceeding \$1,500 each; other necessary persons and experts; necessary
231 experts to assist in ascertaining valuation of railways. *Sayles' Civ. Stats. 1897, arts. 4561(5), 4570.*

VERMONT Engineer, accountant, stenographer or other expert if commission deems such service important; sufficient number of clerks who shall perform clerical work of office; necessary
232 experts and temporary employes at compensation fixed by commission subject to approval by governor. *Pub. Stats. 1906, sec. 4605. Laws 1908, no. 116, sec. 20.*

VIRGINIA Clerk, bailiff, other clerks, officers, assistants
233 and subordinates at salaries fixed by commission who may be removed by commission. *Const., sec. 155.*

WASHINGTON Expert rate clerk and statistician, engineer and inspector of safety appliances, at not exceeding \$3,000 each; expert accountant and stenographer competent to report hearings, at not exceeding \$1,800 each; necessary engineers, inspectors,
234 accountants, experts, clerks and other assistants at compensations determined by commission; special agents or examiners who may administer oaths and examine witnesses. All employes shall take an oath faithfully and impartially to discharge the duties of their several offices. *Laws 1911, ch. 117, secs. 6, 78.*

WISCONSIN

- Clerks and stenographers at compensation fixed by commission who shall perform clerical work of office; necessary experts and temporary employees at compensation fixed by commission; necessary engineers, examiners, experts, clerks, accountants and other assistants at compensation fixed by commission; agents appointed by order in writing to make any investigation with regard to any public utility, who in the discharge of duties shall have every power of an inquisitorial
- 235 nature granted to commissioner and same powers as a court commissioner with regard to taking depositions. Commission may delegate to such agents the taking of all testimony bearing upon any investigation or hearing; but recommendations made by agents shall be advisory only and shall not preclude the taking of further testimony nor further investigation. *Laws 1907, ch. 499, secs. 1797m-40, 1797m-41(1) to 1797m-41(3), 1797m-106 (as amended by Laws 1909, ch. 450), ch. 582, sec. 1797-1(h).*
- 236 Experts employed shall be exempt from operation of civil service law of 1905, and amendatory acts. *Laws 1907, ch. 582, sec. 1797-1(h).*

CHAPTER II

General Powers of Commissions

SCOPE NOTE

This chapter includes grants of power which give commissions general authority to regulate utilities. This authority is found in the use of language involving general supervision, in comprehensive enumeration of particular powers in summary form, and in grants of special powers of such broad scope as to amount to general regulation. For provisions incidentally involving grants of general power, see ch. xiv, on commission procedure and practice. For general statements of particular powers, see ch. iv, on establishment and change of rates, ch. vii, on service, and ch. viii, on safety of operation. For provisions authorizing commissions to examine equipment and facilities, see ch. viii, on safety of operation. For provisions authorizing commissions to elicit general information from utilities, and for those requiring commissions to submit reports and make recommendations, see ch. x, on reports. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. EXTENT OF GENERAL AUTHORITY OF COMMISSION

1. *Authority of Commission to Supervise and Regulate Utilities Designated.*

UNITED STATES Commission may inquire into the management of business of all common carriers and keep itself informed as to the manner and method in which same is conducted and may obtain from such common carriers, full and complete information to enable it to perform its duties and carry out the objects for which it was created. *Act to Regulate Commerce, sec. 12.*

Commission is hereby authorized and required to execute and enforce the provisions of this act. *Same.*

Enumeration of powers shall not exclude any power which commission would otherwise have in the making of an order under provisions in this act. *Same, sec. 15.*

ALABAMA Commission may supervise and control transportation companies and express companies, car, sleeping car, steamboat, or steam packet companies and also all telegraph and telephone lines operating in more than one city or town. *Code 1907, sec. 5647.*

Commission is charged with the duty of supervising, regulating and controlling all transportation companies doing business in this state, in all matters relating to the performance of their public duties, and their charges therefor and of correcting abuses therein by such companies. *Same, sec. 5651.*

Commission may regulate railroad freight and passenger tariffs, the locating and building of passenger and freight depots, correct abuses, prevent unjust discrimination and extortion; and require reasonable and just rates of freight and passenger tariffs. *Same, sec. 5652.*

Commission may inquire into the management of the business of all transportation companies, and shall keep itself informed as to the condition, manner, and method in which the same are conducted with reference to the security and accommodation of the public and their compliance with their charters and the laws of the state. They may obtain from any such company full and complete information necessary to enable commission to perform its duties and carry out the objects for which it was created. *Same, sec. 5656.*

ARIZONA, CALIFORNIA

Commission may supervise and regulate every public service corporation¹ and do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

244 *Ariz.—Sess. Laws 1912, ch. 90, sec. 31; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 31.*

See also pars. 3161, 3162, 4518.

COLORADO

Identical with pars. 237, 238. *Laws 1910, sp. sess., ch. 5, sec. 12.*

245

CONNECTICUT

The provisions of this act shall be deemed to be amendatory of all charters of public service companies chartered by, or organized under the laws of, this state and shall repeal all powers and limitations in any such charters in so far as the same are inconsistent herewith; and all powers and privileges conferred, and all duties and obligations imposed, upon such companies by the provisions of this act are conferred or imposed upon such companies in the same manner and to the same extent as if the provisions of this act were parts of the charters of such companies. *Pub. Acts 1911, ch. 128, sec. 37.*

246

FLORIDA

Commission may direct and control all matters pertaining to railroads that shall be for the good of the public. *Gen. Stats. 1906, sec. 2893.*

247

Commission is vested with judicial powers to do or enforce or perform any function, duty or power conferred upon it by this chapter to the exercise of which judicial power is necessary. *Same, sec. 2922.*

248

The powers of commission shall be and the same are hereby enlarged and extended so as to confer upon commission exclusive power and authority within this state, and it shall be their duty to regulate the rates and charges and service within this state of all persons, firms or corporations engaged in or carrying on a telephone business within this state, so far as said rate and charges apply to the business of said such persons, firms or corporations within this state; provided, however, that such rates and charges must and shall be in each and every case just, fair and reasonable. *Laws 1911, ch. 6186, sec. 1.*

249

All the terms and provisions of this state as embraced

250

¹"Public utility," in California.

in chapter 5, title 4, fourth division of the general statutes and all acts supplementary thereto or amendatory thereof are hereby declared to be of force with reference to all persons, firms or corporations carrying on a telephone business within this state so far as said laws are applicable to such persons, firms or corporations carrying on telephone business within this state. *Same, sec. 2.*

251 All persons, firms and corporations owning, controlling or operating a line or lines of telegraph, whose line or lines is or are in whole or in part in this state, shall be under the control of commission, who shall have full power to regulate the prices to be charged and service to be rendered by any person, firm, or corporation owning, controlling or operating any line or lines of telegraph for any service performed by such person, firm or corporation and all the powers given to commission over railroads in this state, and all the penalties prescribed against railroad companies or persons operating railroads, by and under the laws of Florida, are hereby declared to be in force against corporations, persons, firms and corporations owning, controlling or operating a line or lines of telegraph. *Laws 1911, ch. 6187, sec. 1.*

252 The powers of commission to regulate charges by corporations, companies and persons herein referred to shall apply to messages sent by telegraph from one point to another in this state. *Same, sec. 2.*

GEORGIA

353 All companies or persons owning, controlling, or operating a line or lines of express or telegraph, which are in whole or in part in this state, shall be under the control of commission, who shall have full power to regulate the prices to be charged by any company or person owning, controlling, or operating any such line or lines, for any service performed by such company or persons, and all the powers given to commission over railroads in this state, and all the penalties prescribed against companies or persons operating railroads by existing laws are hereby declared to be of force against corporations, companies, or a person or persons owning, controlling, or operating a line or lines of express and telegraph, whose line or lines is or are, wholly or in part, in this state, so far as said provisions can be made applicable to any corporation, company, person, or persons, owning, controlling, or operating a line or lines of express and telegraph. Commission may also require said companies to locate agencies at railroad stations. *Code 1911, sec. 2660.*

The powers of commission to regulate charges by corporations, companies and persons herein referred to shall apply only
284 to charges by express, for transportation from one point to another in this state; and messages sent by telegraph from one point to another in this state. *Same, sec. 2661.*

The powers and duties heretofore conferred by law upon commission are hereby extended and enlarged, so that its authority and control shall extend to street railroads and street railroad corporations, companies, or persons, owning, leasing or operating street railroads in this state; provided, however, that nothing herein shall be construed to impair any valid subsisting contract now in existence between any municipality and any such company; and provided that this act shall not operate as a repeal of any existing municipal ordinance, nor shall it impair nor invalidate any future contract or ordinance of any municipality as to the public uses of such company, that shall receive the assent of
285 commission; over docks and wharves and corporations, companies or persons owning, leasing or operating the same; over terminals or terminal stations and corporations, companies or persons owning, leasing or operating such; cotton compress corporations or associations and persons or companies owning, leasing or operating the same; and over telegraph or telephone corporations, companies or persons owning, leasing or operating a public telephone service or telephone lines in this state; over gas and electric and power companies, corporations or persons owning, leasing or operating public gas plants, or electric light and power plants furnishing service to the public. *Same, sec. 2662.*

Commission shall have and exercise all the power and authority heretofore conferred upon it by law, and shall have the general supervision of all common carriers, railroads, express corporations or companies, street railroads, railroad corporations or companies, dock or wharfage corporations or companies, terminal or terminal station corporations or companies, telephone
286 or telegraph corporations or companies, gas or electric light and power companies; and while it may hear complaints, yet commission is authorized to perform the duties imposed upon it of its own initiative. *Same, sec. 2663.*

Commission is hereby given authority to examine into the affairs of said companies and corporations and to keep informed
287 as to their general condition, their capitalization, their franchises, and the manner in which their lines, owned, leased, or controlled, are managed, conducted and operated, not only with respect to

the adequacy, security and accommodation afforded by their service to the public and their employes, but also with reference to their compliance with all provisions of law, orders of commission and charter requirements. *Same.*

INDIANA

The power and authority is hereby vested in commission and it is hereby made its duty to supervise and regulate private car line service and private tracks where such tracks are operated in connection with any railroad in this state or share in the rates or earnings of any common carrier subject
288 to the provisions of this act; to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads and to enforce the same by proceedings for the enforcement of penalties provided by law through courts of competent jurisdiction. *Acts 1907, ch. 241, sec. 3.*

IOWA

Commission shall have general supervision of all railroads operated by steam, express companies, car companies, sleeping car companies, freight and freight line companies, and any common carrier engaged in the transportation of passengers
290 or freight by railroad, street railroads excepted, and shall investigate any alleged neglect or violation of the laws of the state by any railroad corporation doing business therein, or by the officers, agents or employes thereof. *Code 1897, sec. 2112.*

290 Also a provision identical with par. 237. *Same, sec. 2133.*

Commission shall have general supervision of all express companies operating and doing business in this state¹; and shall
291 inquire into any unjust discrimination, neglect or violation of the laws of this state governing common carriers, by an express company doing business therein, or by the officers, agents or employes thereof. *Same, sec. 2165(b).*

KANSAS

Commission shall have the general supervision and control over all persons, firms, associations or corporations in the performance of the business of transportation of oil by
292 means of pipe lines, and shall prescribe reasonable rules for the conduct thereof, which rules, when prescribed and delivered in writing to any such person, firm, association, or corporation, shall be printed and posted up in a convenient, accessible and con-

¹ All express companies operating and doing business in this state are declared to be common carriers, and it shall be the duty of every such express company or common carrier to transport all property, parcels, money, merchandise, packages and other things of value which may be offered to them for transportation at a reasonable charge or rate therefor; and all laws so far as applicable, now in force or hereafter enacted, regulating the transportation of property by railroad companies, shall apply with equal force and effect to express companies. *Code 1897, sec. 2165a.*

spicuous place at each office, station or place of business where such oil is received or delivered. *Gen. Stats. 1909, sec. 3964.*

Commission shall have the same powers in relation to irrigation companies that it has in relation to railroad companies. *Same, sec. 4478.*

Commission shall have the general supervision of all railroads operated by steam or electricity or other motive power within the state, and all express companies, sleeping car companies, and all other persons, companies or corporations doing business as common carriers in this state; and shall inquire into any neglect or violations of the laws of this state by any person, company or corporation engaged in the business of transportation of persons or property therein, or by the officers, agents or employes thereof; and shall also from time to time carefully examine and inspect the condition of each railroad in this state, and of its equipment, and the manner of its conduct and management with reference to the public safety and convenience; provided, this section shall not be construed as applying to street railway or electric lines operated wholly within one county. *Same, sec. 7186.*

Commission may require public utilities and common carriers to make such improvements and do such acts as are or may be required by law to be done by such public utility or common carrier. *Laws 1911, ch. 238, sec. 14.*

KENTUCKY

There is established a department in the state government to be known as the railroad commission, which shall see that the laws relating to all railroads, except street railways, are faithfully executed, and to exercise a general supervision over the railroads of the state. *Carroll's Stats. 1909, sec. 821.*

Commission shall examine into the condition, management, and all other matters concerning the business of railroads in this state, so far as the same pertain to the relation of such railroads to the public and whether such railroad corporations, their officers and employes, comply with the laws of the state; and whenever it shall come to their knowledge, or they shall have reason to believe, that the laws affecting railroad corporations in their business relations to the public have been violated, they shall prosecute, or cause to be prosecuted, the corporations or persons guilty of such violations. *Same, sec. 826.*

LOUISIANA

The power and authority is hereby vested in commission, and it is hereby made its duty to correct abuses, and prevent unjust discrimination and extortion in the rates for

the same, on different railroads, steamboats, and other watercraft, sleeping car, express, telephone or telegraph lines of this state. *Const., art. 284.*

See also par. 801.

MARYLAND

Commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations, and street railroad corporations, transporting passengers, freight or property from one point to another within the state and shall have power to and shall examine the same or cause the same to be examined and keep informed as to their
269 general condition, their capitalization, their franchises, and the manner in which their lines, owned, leased, controlled or operated and managed, are conducted or operated within this state both with respect to the adequacy, security and accommodation afforded by their service, and also with respect to their compliance with all provisions of law and orders of commission. *Laws 1910, ch. 180, sec. 13.*

Commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations, and all other corporations and persons subject to the provisions of this act, and shall have the power to and shall examine the same and keep informed as to
270 their general condition, their capitalization, their franchises and the manner in which their lines, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of commission and charter requirements. *Same, sec. 20.*

Commission shall have the general supervision of all persons and gas and electrical corporations and corporations having authority under any general or special law, or under any charter or franchise, to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of
271 furnishing or distributing gas both natural and artificial, or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors. *Same, sec. 31½.*

Commission may examine all persons and corporations under
272 its supervision, keep informed as to the methods employed by them in the transaction of their business and see that their prop-

erty is maintained and operated for the security and accommodation of the public and in compliance with the provisions of the law and of their franchises and charters. *Same*.

Commission shall have within its discretion general supervision of all persons having authority under any general or special law or under any charter or franchise to lay down or erect
273 or maintain poles, wires, pipes, conduits or other fixtures in, over or under the streets, highways, and public places, for the purpose of furnishing facilities for the transmission of intelligence by electricity. *Same, sec. 39(1)*.

Commission, within its discretion shall examine all persons and corporations under its supervision as to the methods employed by them in the transaction of their business, see that their
274 property is maintained and operated for the reasonably adequate accommodation of the public and in compliance with the provisions of law and of their franchise and charters. *Same, sec. 39(4)*.

Commission shall have in addition to powers herein specified, mentioned or indicated all additional implied and incidental
275 powers which may be proper and necessary to effectually carry out, perform and execute all said powers herein specified, mentioned or indicated. *Same, sec. 52*.

MASSACHUSETTS Gas and electric commission shall have general supervision of all corporations and companies engaged in the manufacture and sale of gas or electricity for light or heat,
276 and shall make all necessary examinations and inquiries and keep informed as to the compliance of the several corporations and companies with the provisions of law. *Rev. Laws 1902, ch. 121, sec. 5*.¹

Highway commission shall have general supervision of all companies engaged in the transmission of intelligence by electricity within this commonwealth, and shall make all necessary
277 examinations and inquiries and keep itself informed as to the compliance of all such companies with the provisions of law. *Acts 1906, ch. 433, sec. 1*.

278 Railroad commission shall have general supervision of all railroads and railways,² and shall examine the same; and com-

¹ In the construction of sections 4 (repealed by *Acts 1904, ch. 435*), 5, 6, 7, 8, 28, 29, 31, 33 and 34 of this chapter, the terms "gas company" and "corporation" shall include all persons owning or operating works for the manufacture and sale of gas for heating or illuminating purposes within the commonwealth, and the terms "company" and "companies" shall include all corporations or individuals engaged in the manufacture and sale of electric light within the commonwealth. *Rev. Laws 1902, ch. 121, sec. 41*.

² No request or advice of commission shall in any manner impair the legal duties and obligations of a railroad corporation or street railway company or its legal liability for the consequences of its acts or of the neglect or mismanagement of any of its agents or servants. *Acts 1906, ch. 403, pt. 1, sec. 14*.

mission shall keep itself informed as to the condition of railroads and railways and the manner in which they are regulated with reference to the security and accommodation of the public, and as to the compliance of the several railroad corporations and street railway companies with their charters and the laws of this commonwealth. The supreme judicial court shall have jurisdiction in equity to enforce compliance with any order issued by commission under authority of this section. *Acts 1906, ch. 463, pt. i, sec. 6.*

Commission shall in respect to steamship companies serving as common carriers throughout the year between two or more parts of this commonwealth, perform the same duties, including
279 the regulation of rates for transporting freight or passengers, and including other matters affecting the security or convenience of the public, which commission is now or may hereafter be empowered to perform in the case of railroads or railways. *Same, sec. 7.*

Commission may, upon the complaint of any party interested, exercise over express companies, firms and persons doing
280 an express business on railroads or railways in this commonwealth, supervisory powers with regard to the character of accommodations and service furnished, and the reasonableness of rates charged. *Same.*

See also par. 2586.

MICHIGAN All street railway corporations organized or doing business under this act shall be subject to the supervisory control of commission as provided by act number 171 of the public acts of 1893, and commission shall also have power to make
281 from time to time reasonable rules and regulations for the operation of the street railways of such corporations in the conduct of the suburban express business they are authorized to carry on by this act as amended. *Comp. Laws 1897, sec. 6466.*

When electricity is generated or developed by steam, water or other power within one county of this state, and transmitted and delivered to the consumer in the same or some other county,
282 then the transmission and distribution of same in or on the public highways, streets and places, and the rate of charge to be made to the consumer for the electricity so transmitted and distributed shall be subject to the regulation as in this act provided. *Pub. Acts 1909, no. 106, sec. 1.*

283 Commission shall have control and supervision of the busi-

ness of transmitting and supplying electricity as mentioned in the first section of this act. *Same, sec. 2.*

Commission may in its discretion keep informed as to the methods employed by corporations engaged in the business of transmitting and supplying electricity in the transaction of their
284 business and see that their property is maintained and operated for the security and accommodation of the public and in compliance with the provisions of law. *Same, sec. 6.*

Commission may inquire into the management of the business of any common carrier and shall keep itself informed as to
285 the manner and may obtain from any common carrier all necessary information to enable commission to perform the duties and to carry out the objects for which it is created. *Pub. Acts 1909, no. 300, sec. 28(a).*

The police powers of the state over railroads, street railways, interurban railways and suburban street railways, whether operated by steam, electricity or other motive power, organized or
286 doing business in this state, shall be and the same are hereby vested in commission, and it is hereby made the duty of commission to exercise the same in accordance with the requirements of the law. *Same, sec. 44.*

Commission shall have the general control of all telephones, telephone lines and telephone companies within the state, and
287 shall investigate any alleged neglect or violation of the laws of the state by any person, firm, association or corporation doing a telephone business within the state, or by the officers, agents or employes thereof. *Pub. Acts 1911, no. 138, sec. 2.*

Commission may hear and determine the complaints of any person, firm, association, corporation, body politic or municipal
288 corporation, against the rates and charges for the service rendered or facilities furnished, or complaints as to service withheld or refused to be rendered, furnished or performed by persons, firms or corporations within the terms of this act. *Same, sec. 8.*

Commission shall have control and supervision over all express companies operating within this state. *Pub. Acts 1911, no. 139, sec. 25(f).*

MINNESOTA The general supervision of railroad and express
289 companies doing business as common carriers and of public warehouses is vested in commission.¹ *Rev. Laws 1905, sec. 1953.*

¹ The provisions of this chapter shall be liberally construed with a view to the public welfare, efficient transportation facilities, and substantial justice between shippers and passengers and common carriers, and commission shall at all times do everything within the scope of its powers to secure such ends, and to facilitate commerce and the safety, convenience, and comfort of passengers and employes. *Rev. Laws 1905, sec. 1958.*

Commission shall inquire into the management of the business of all carriers and warehousemen and shall keep informed
291 as to the manner in which the same is conducted, and shall obtain from such carriers and warehousemen all information necessary for the performance of its duties. *Same, sec. 1962.*

MISSISSIPPI Commission shall demand and require all proper information from railroads, express, telegraph, telephone,
292 and sleeping car companies to enable its members to intelligently discharge their duties; and to require the same of all steamboats and other carriers for statistical purposes. *Code 1906, sec. 4848.*

Commission shall require all the necessary information from express, telegraph and sleeping car companies, and shall make
293 such reasonable orders for their supervision and regulation from time to time as to their charges and otherwise as the public interest may require. *Same, sec. 4879.*

Commission shall call for information from railroads and other common carriers from time to time, and make investigation
294 to determine whether the laws are being complied with on their several parts; and it is its duty to see that all laws, civil and penal affecting railroads and other common carriers, are complied with, and to prosecute all offenders. *Laws 1908, ch. 82, sec. 1.*

All laws and parts of laws giving authority to commission to supervise common carriers shall also apply to car service associations, or other associations, governing or controlling cars or
295 rolling stock of railroads¹ at whatever places they do business in this state, and the same penalties fixed by law for disobeying mandates or orders of commission shall apply to the car service associations as well as to common carriers. *Laws 1908, ch. 87, sec. 2.*

See also par. 808.

MISSOURI Commission shall have general supervision of all express companies operating and doing business in this state; and shall inquire into any unjust discrimination, neglect
296 or violation of the laws of this state governing common carriers, by any express company doing business therein, or by the officers, agents or employes thereof. *Rev. Stats. 1909, sec. 3288.*

MONTANA Commission shall have general supervision of
297 all railroads, express companies, car companies,^{*} sleeping car

¹ The term "railroad" includes and applies to every person, firm, association of persons and company, whether incorporated or not, who or which shall own or operate a railroad as a common carrier, and the term "company" embraces and applies to every person, firm, association of persons and company, whether incorporated or not, who or which shall own or operate a telegraph or telephone line, or do an express or sleeping car business. *Laws 1908, ch. 87, sec. 1.*

companies, freight and freight line companies, and any common carrier engaged in the transportation of passengers or property in this state, in all matters pertaining to the duty of commission and within its power and authority under the provisions of law, and shall investigate any alleged neglect or violation of the laws of the state by any railroad or other company above specified doing business therein or by the officers, agents, or employes thereof. Commission shall also have the power and authority, and it shall be its duty, to examine and inspect, or cause to be examined and inspected under its authority, all books, records, files and papers of the persons and companies specified above, in so far as the same may be pertinent to any matter under investigation before commission and to hear and take testimony in the progress of any inquiry or investigation authorized by law. *Rev. Code 1907, sec. 4378.*

NEBRASKA

Commission may regulate the rates and services of and exercise a general control over all railroads, express companies, car companies, sleeping car companies, freight and
298 freight line companies, and all other common carriers engaged in the transportation of freight or passengers within the state. *Cobbey's Annot. Stats. 1909, sec. 10650(b).*

Commission shall investigate any and all cases of alleged neglect or violations of the laws of the state by any railway company, or common carrier or by the officers, agents, or employes
299 thereof, and take such action with reference thereto as may be provided herein, or under the laws of this state providing for the regulation of railway companies or common carriers. *Same, sec. 10650(c).*

Commission may issue orders regulating service and charges of all kinds at all stock yards, and the same shall be enforced in the same manner and under the same penalties as orders regulat
300 ing common carriers; provided, that where no other penalty is provided by law for a violation of any such order, it shall be punishable by a penalty of not less than \$100 nor more than \$500 and where the violation is a continuing one, each day thereof shall constitute a separate offense. *Acts 1911, ch. 3, sec. 2.*

NEVADA

All duties required of and penalties imposed upon any railroad or any officer or agent thereof shall in so far as
301 the same are applicable be required of and imposed upon express companies, telegraph and telephone companies and companies which may own cars of any kind or character used and operated

as part of railroad trains in or through this state, and their officers and agents, and commission shall have the power of supervision and control of all such companies to the same extent as of railroads. *Stats. 1907, ch. 44, sec. 2, as amended by Stats. 1909, ch. 121, sec. 2.*

302 Also a provision for railroads substantially identical with par. 237. *Same, sec. 18.*

303 It shall be the duty of commission to supervise and regulate the operations of public utilities, such supervision and regulation to be in conformity with the provisions of this act. *Stats. 1911, ch. 162, sec. 1.*

304 Commission is invested with full power of supervision, regulation and control of all utilities, subject to the provisions of this act and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village. *Same, sec. 3.*

NEW HAMPSHIRE Commission shall have the general supervision of all railroad corporations, railroads, public utilities and the 305 plants owned, operated or controlled by the same, as far as necessary to carry into effect the provisions of this act. *Laws 1911, ch. 164, sec. 5(a).*

Commission shall have power and it shall be its duty to keep informed as to all railroad corporations in the state, their capitalization, their franchises, and the manner in which the lines 306 and property controlled or operated by them are managed and operated, not only with respect to the adequacy and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of commission and charter requirements. *Same, sec. 5(b).*

NEW JERSEY Commission shall have general supervision and regulation of, jurisdiction and control over all public utilities and also over their property, property rights, equipment, facilities and franchises, so far as may be necessary for the purpose of 307 carrying out the provisions of this act. *Laws 1911, ch. 195, sec. 15.*

Commission may, after hearing, upon notice, by order in writing, require every public utility to comply with the laws of 308 this state and any municipal ordinance relating thereto and to conform to the duties imposed upon it thereby or by the provisions of its own charter, whether obtained under any general or special law of this state. *Same, sec. 17(a).*

NEW YORK

A provision substantially identical with par.

309 270. *Laws 1910, ch. 480, sec. 45(2).*

Each commission shall have general supervision of all gas and electrical corporations having authority under any general or special law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over
310 or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing gas or transmitting electricity for light, heat, or power, or maintaining underground conduits or ducts for electrical conductors, and all gas plants and electric plants owned, leased or operated by any gas corporation or electrical corporation. *Same, sec. 66(1).*

Each commission shall examine all persons, corporations and municipalities and shall keep informed as to the methods, practices, regulations and property employed by them in the trans-
311 action of their business.¹ *Same, sec. 66(5).*

Commission shall have general supervision of all telegraph
312 and telephone corporations and lines and shall have power to and shall examine same and keep informed as to their general condition, capitalization, franchises and manner in which their lines and property are leased, operated or managed with respect to the adequacy of and accommodation afforded by their service and also with respect to the safety and security of their lines and property and to their compliance with the law, orders of commission, franchises and charter requirements. *Same, sec. 94(2).*

Every freight terminal corporation shall be subject to the supervision, control and regulation of the public service commission of the district wherein it does business to the same extent
313 as are railroads and street railroads wholly or partly within said district so far as the provisions of the public service commission act are applicable to the case and business of any such freight terminal company. *Laws 1911, ch. 778, sec. 156.*

NORTH CAROLINA Commission shall have such general control and supervision of all railroad, street railway, steamboat, canal, express and sleeping car companies or corporations and of all other companies or corporations engaged in the carrying of freight or
314 passengers, of all telegraph and telephone companies, of all public and private banks and all loan and trust companies or corporations and of all building and loan associations or companies, necessary to carry into effect the provisions of this chapter and the laws regulating such companies, and to require all transporta-

¹ Gas and electric utilities.

tion and transmission companies to establish and maintain all such public service facilities and conveniences as may be reasonable and just. *Pell's Revisal 1908, sec. 1066.*

Every person or individual owning and operating any telephone or telegraph line and who rents phones or wires to persons
315 generally shall be subject to the same control and supervision by commission and the same pains and penalties under the law, as are corporations owning and operating telephone and telegraph lines. *Same, sec. 1066(1).*

All powers and duties in every respect conferred by law upon commission with respect to railroads and other transportation
316 companies are conferred upon commission to control and regulate telegraph, telephone and all other companies engaged in the transmission of messages, in so far as they apply. *Same, sec. 1067(8).*

NORTH DAKOTA Commission shall have the general supervision of all railroads, railroad corporations and common carriers in the state operated by steam, and of all bridge corporations and ferry companies, the property of which is used or operated for railroad purposes, and shall inquire into any neglect or violation of the
317 laws of this state by any such railroad, railroad corporation, bridge corporation, common carrier or ferry company doing business therein, or by the officers, agents or employes thereof, and shall also from time to time carefully examine and inspect the condition of each railroad and railroad corporation in the state, and of its equipment, and the manner of its conduct and management, with reference to the public safety and convenience. *Rev. Codes 1905, sec. 369.*

It shall be the duty of and commission shall have the authority to inquire into the management of the business of all railroads, railroad corporations and common carriers and shall
318 keep itself informed as to the manner and method in which the same is conducted, and may obtain from them full and complete information necessary to enable commission to perform the duties and carry out the objects for which commission is created and which are contemplated by this article. *Same, sec. 4353.*

OHIO A provision for railroads substantially identical with par. 237. *Code 1910, sec. 555.*

Commission shall have the same control over private
320 tracks, so far as such tracks are used by common carriers in connection with a railroad for the transportation of freight, as it has over the tracks of such railroads. *Same, sec. 523.*

Commission shall have power of supervision and control of
321 express, water transportation and interurban railroad companies
to the same extent as railroads. *Laws 1911, no. 325, sec. 1.*

Commission is vested with the power and jurisdiction to
322 supervise and regulate "public utilities" and "railroads" and to
require all public utilities to furnish their products and render
all service required by commission, or by law. *Same, sec. 5.*

The jurisdiction, supervision, powers and duties of commis-
sion shall extend to every public utility and railroad, the plant
or property of which lies wholly within this state, and when the
323 property of a public utility or railroad lies partly within and
partly without this state, to that part of such plant or property
which lies within this state, and to the persons or companies own-
ing, leasing, or operating the same, and to the records and ac-
counts of the business thereof done within this state. *Same, sec. 6.*

Commission shall have general supervision over all public
utilities and may examine same and keep informed as to their gen-
eral condition, capitalization, franchises and the manner in which
324 their properties are leased, operated, managed and conducted with
respect to the adequacy or accommodation afforded by their
service and also with respect to the safety and security of the
public and their employes and with respect to their compliance
with all provisions of law, orders of commission, franchises and
charter requirements. *Same, sec. 10.*

OKLAHOMA Commission shall have power and authority
and be charged with the duty of supervising, regulating and con-
trolling all transportation and transmission companies in all
325 matters relating to performance of their public duties and their
charges therefor, of correcting abuses, and preventing unjust dis-
crimination and extortion by such companies. *Const., art. ix,
sec. 18.*

Commission shall keep itself fully informed of the physical
condition of all the railroads of the state, as to the manner in
which they are operated, with reference to the security and ac-
commodation of the public, and shall from time to time, make
and enforce such requirements, rules and regulations as may be
326 necessary to prevent unjust or unreasonable discrimination and
extortion by any transportation or transmission company in
favor of, or against any person, locality, community, connecting
line, or kind of traffic, in the matter of car service, train or boat
schedule, efficiency of transportation, or transmission, or other-
wise, in connection with the public duties of such company. *Same.*

Commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this constitution) as may be prescribed by law, in connection with the visitation, regulation, or control of corporations, or with
327 the prescribing or enforcing of rates and charges to be observed in the conduct of any business where the state has the right to prescribe the rates and charges in connection therewith, or with the assessment of the property of corporations, or the appraisalment of their franchises for taxation or with the investigation of the subject of taxation generally. *Same, sec. 19.*

OREGON All duties required of and penalties imposed upon any railroad or any officer or agent thereof shall in so far as the same are applicable be required of and imposed upon
328 express, union depot, and terminal companies and their officers and agents, and commission shall have the power of supervision and control of union depot, terminal and express companies to the same extent as railroads. *Gen. Laws 1907, ch. 53, sec. 11.*

Commission shall have control over private tracks in so far as the same are used by common carriers, in connection with any
329 railroad for the transportation of freight, in all respects the same as though such tracks were a part of the tracks of such railroad. *Same, sec. 27.*

330 Also a provision for railroads substantially identical with par. 237. *Same, sec. 39.*

Commission is vested with power and jurisdiction to supervise and regulate every public utility and to do all things necessary and convenient in the exercise of such power and jurisdiction. *Gen. Laws 1911, ch. 279, sec. 6.*

332 Also a provision for public utilities substantially identical with par. 237. *Same, sec. 35.*

PENNSYLVANIA Commission may inquire into the management of the business of all common carriers,¹ including freight and passenger rates and tariffs, the equitable distribution of cars, the granting of sidings and regulation of crossings, the location of freight and passenger stations, the adequacy of facilities for the
333 carriage and transportation of freight and passengers, the use and compensation for cars owned or controlled by persons other

¹ No examination, request, or advice of commission, nor any investigation or report made by it, shall impair in any manner or degree the legal rights, duties, or obligations of any common carrier, or its legal liabilities for the consequences of its act, or of the neglect or mismanagement of any of its agents or employees. *Laws 1907, no. 250, sec. 18.*

than the carrier, and, generally, all matters incident to the performance of their public duties, and their compliance with the provisions of their charters and the laws of the land. *Laws 1907, no. 250, sec. 7.*

334 The enumeration of powers shall not exclude any power which commission would otherwise have under the provisions of this act. *Same, sec. 19.*

RHODE ISLAND The provisions of this act shall be interpreted and construed liberally in order to accomplish the purposes thereof, and where any specific power or authority is given the commission by the provisions of this act the enumeration thereof shall not be held to exclude or impair any power or authority
335 otherwise in this act conferred on said commission. The commission shall have, in addition to the powers in this act specified, mentioned and indicated, all additional, implied and incidental power which may be proper and necessary to effect and carry out, perform and execute all the said powers herein specified, mentioned and indicated. *Acts 1912, ch. 795, sec. 58.*

SOUTH CAROLINA Commission shall have the general supervision of all railroads and railways, express and telegraph lines in this state operated by steam, and shall examine the same and keep itself informed as to their condition and the manner in which they are operated, with reference to the security and accommodation
336 of the public and the compliance of the several corporations with the provisions of their charters and the laws of the state; and to enforce the provisions of this chapter; and the provisions of this chapter shall apply to all railroads and railways and to the corporations, trustees, receivers or others owning or operating the same. *Gen. Stats. 1902, sec. 2067.*

Whenever in the judgment of commission it shall appear that repairs are necessary upon any railroad or that any addition to the rolling stock or any enlargement of or improvement in the stations or station houses or any modification in the rates of fare for transporting freight or passengers or any change in the mode of operating the road and conducting its business is reasonable
337 and expedient in order to promote the security, convenience and accommodation of the public, it shall give information in writing to the corporation of the improvements and changes which commission adjudges to be proper, and if said company shall fail within 60 days to adopt the suggestions of commission, it shall take such legal proceedings as it may deem expedient and shall

have authority to call upon the attorney general to institute and conduct such proceedings. *Same, sec. 2069.*

All companies or persons owning, controlling or operating a line or lines of express or telegraph, whose line or lines is or are in whole or in part in this state, shall be under the control of commission, who shall have full power to regulate the prices to be charged by any company or person or persons owning, controlling or operating any line or lines of express and telegraph for any service performed by such company, person or persons; and all the powers given to commission over railroads, and all the
338 penalties prescribed against railroad companies or persons operating railroads by existing laws, are hereby declared to be of force against corporations, companies, or a person or persons owning, controlling or operating a line or lines of express and telegraph doing business in this state, whose line or lines is or are wholly or in part in this state, so far as said provisions of the law can be applicable to any corporation, company, person or persons, owning, controlling or operating a line or lines of express and telegraph. *Same, sec. 2220.*

Commission shall have and exercise the same jurisdiction and supervisory powers and control over and concerning all telephone lines, stations and exchanges in this state, and over
339 all persons, firms or corporations owning or operating such telephone lines, stations or exchanges for the transmission of intelligence for hire, that it now has and exercises over and concerning railroads, telegraph and express lines, and the persons, firms, or corporations owning or operating them in this state. *Laws 1904, no. 281, sec. 1.*

For the purpose of enforcing and carrying into effect the provisions of this act and making such investigations as may be necessary and proper in enabling it to discharge the duties hereby imposed, commission is hereby invested with all the rights, pow-
340 ers and privileges conferred upon it and charged with all the duties imposed upon it or its members as railroad commissioners, by the laws of this state for like purposes in regard to railroads, express and telegraph lines, and the persons, firms, or corporations owning or operating them. *Same, sec. 2.*

SOUTH DAKOTA It shall be the duty of commission to supervise the handling, inspection, weighing, grading and storage of
341 grain and seeds, to establish all necessary rules and regulations for the weighing and inspection of grain, and for the management of the public warehouses of the state, as far as such rules and

regulations may be necessary to enforce the provisions of this article, or any law of this state, in regard to the same; to investigate all complaints of fraud or oppression in the grain trade of this state, and to correct the same as far as it may be in their power. *Rev. Pol. Code 1903, sec. 481.*

Commission shall have general supervision and control of all telegraph lines and exchanges constructed and operated in the state, and it is the duty of commission to inquire into any complaints or unjust discriminations, neglect or violation of the laws of state governing telephone companies, by their owner or owners, or by any of their officers, agents or employees. Commission shall have power to fix individual rates as well as to
343 make schedules of maximum rates, including joint rates to be charged by any telephone company or companies for the rent of any line or instrument or for the transmission of any message and for any service in connection therewith, and to make such changes therein from time to time as it may deem reasonable or necessary, and it may exercise any other power necessary to a proper supervision and control of such companies. *Sess. Laws 1909, ch. 289, sec. 2, as amended by Sess. Laws 1911, ch. 218, sec. 1.*

Commission shall have the general supervision of all common carriers in the state (street railways excepted) and shall inquire into any neglect or violation of the laws of this state by any common carrier doing business herein, or by the officers, agents or employees thereof, and shall also from time to time carefully examine and inspect the condition of each common carrier
343 in this state, and of its equipment, and the manner of its conduct and management with reference to the safety, accommodation and convenience of the public. *Sess. Laws 1911, ch. 207, sec. 2.*

344 Also a provision for common carriers substantially identical with par. 318. *Same, sec. 15.*

Commission may regulate the method and manner of conducting the business of transmitting messages by telephone and
345 make, fix and determine all necessary rules and regulation for the conducting of said business. *Same, sec. 52.*

Commission may regulate and control the method and manner of conducting the express business in this state, and make
345 rules and regulations governing the method of transacting such business. *Same, sec. 53.*

VERMONT

347 Commission shall have the powers of a court of record, both at law and in equity, in the determination and

adjudication of all matters over which it is given jurisdiction. It may render judgments, make orders and decrees, and enforce the same by any suitable process issuable by courts of law and equity in this state. *Pub. Stats. 1906, sec. 4597.*

348 Commission shall have general supervision of all railroads, whether operated by steam, electricity or any other power, and of the corporations, receivers, trustees, directors, lessees and other persons owning or operating the same, so far as may be necessary to enable it to perform the duties and exercise the powers conferred upon it. *Same, sec. 4602.*

Commission shall have jurisdiction on due notice to hear, determine, render judgment and make orders and decrees in all matters provided for in the charter of any railroad corporation or in the statutes of this state relating to railroads and shall have like jurisdiction in all matters respecting: I. The crossing of one railroad by another. II. All highway grade crossings and signs, signals, gates, or flagmen at the same. III. The location, sufficiency and maintenance of proper depots or stations. IV. The construction and maintenance of proper fences, cattle guards and farm crossings. V. The maintenance of the tracks, frogs, 349 switches, gates, signals, culverts, bridges and other structures of wood or iron over openings, and rolling stock and equipment so as to accommodate the public and be operated with safety and in compliance with law. VI. The connections, time and times of connection between connecting roads for the accommodation of the traveling public and the transportation of merchandise. VII. The issue of stock, mortgage bonds or the issue of other securities in order to prevent over-capitalization. VIII. Tolls and rates when unreasonable or in violation of law. IX. The manner of operating railroads and conducting the business thereof so as to be reasonable and expedient and to promote the security, convenience and accommodation of the public and to prevent violations of law and unjust discriminations, usurpation or extortions. X. The organization of railroad corporations by voluntary association. Provided, that nothing in this section shall be construed as affecting special provisions of law relating to anything herein contained. *Same, sec. 4611.*

350 Commission shall have general supervision of all companies engaged in the manufacture, distribution and sale of gas or electricity for lighting or heating, of all express companies, and of all companies owning and operating telegraph or telephone lines, stations or exchanges, and of all plants, lines, exchanges and equip-

ment of such companies used in or about the business carried on by them, and all companies, receivers, trustees, directors, or lessees, owning or operating the same, so far as may be necessary to enable it to perform the duties and exercise the powers conferred upon it by this act; and shall have supervision of companies engaged in the manufacture, sale and distribution of power, so far as relates to their use or occupancy of the public highways and so far as relates to furnishing power for public use. *Laws 1908, no. 116, sec. 3.*

Commission shall have jurisdiction on due notice to hear, determine, render judgment and make orders and decrees in all matters provided for in the charter of any corporation owning or operating any plant, line or property subject to supervision under this act and shall have like jurisdiction in all matters respecting: I. The purity, quantity or quality of any product furnished or sold by any company under supervision as provided in this act, and may prescribe the equipment for and standard of measurement, pressure, or initial voltage of such product. II. The providing for each kind of business subject to supervision under this act, suitable and convenient standard commercial units of product or service, which standards shall be lawful
351 for the purposes of this act. III. The manner of operating and conducting any business subject to supervision under this act so as to be reasonable and expedient and to promote the safety, convenience and accommodation of the public. IV. The price, toll, rate or rental charged by any company subject to supervision under this act when unreasonable or in violation of law. V. The sufficiency and maintenance of proper systems, plants, conduits, appliances, wires and exchanges, and when the public safety and welfare require the location of such wires or any portion thereof underground. VI. To restrain any company subject to supervision under this act from violations of law, unjust discriminations, usurpation or extortion. VII. The issue of stock, mortgages, bonds or other securities in order to prevent overcapitalization as hereinafter provided. *Same, sec. 9.*

VIRGINIA

Commission shall keep itself fully informed of
352 the physical condition of all the railroads of the state, as to the security and accommodation of the public. *Const., sec. 156(b).*

Commission shall have power and be charged with the duty
353 of supervising, regulating and controlling all transportation and transmission companies with all matters relating to the perform-

ance of their public duties and their charges therefor, and of correcting abuses therein by such companies. *Same.*

Commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this constitution) as may be prescribed by law, in connection with the visitation, regulation or control of corporations, or with the prescribing and enforcing of rates and charges to be observed
254 in the conduct of any business where the state has the right to prescribe the rates and charges in connection therewith, the assessment of the property or corporations, or the appraisal of their franchises, for taxation, or with the investigation of the subject of taxation generally. *Same, sec. 156(c).*

Commission may require by its rules, regulations and requirements all corporations chartered under the laws of this state
255 and all foreign corporations doing business in this state to perform and discharge any public duty or requirement imposed upon such corporations by the constitution or by law. *Pollard's Code 1904, sec. 1313a(16).*

It shall be the duty of commission to make inquiry and examination from time to time into the acts and proceedings of railroad, canal, steamboat, steamship, or other transportation companies and other chartered common carriers and transmission companies, their officers and agents, for the purpose of ascer-
256 taining whether anything has been done or omitted in violation or contravention of their charters, or of the law. *Same, sec. 1313a(17).*

WISCONSIN

All duties required of and penalties imposed upon any railroad or any officer or agent thereof shall, in so far as the same are applicable, be required of and imposed upon express companies and telegraph companies and their officers and
257 agents, and commission shall have the power of supervision and control of express companies and telegraph companies to the same extent as railroads. *Laws 1905, ch. 362, sec. 1797-2(a), as amended by Laws 1907, ch. 582.*

Commission shall have control over private tracks in so far as the same are used by common carriers, in connection with any
258 railroad for the transportation of freight, in all respects the same as though such tracks were a part of the track of said railroad. *Same, sec. 1797-11(a).*

259 Also a provision for railroads substantially identical with par. 237. *Same, sec. 1797-18.*

Commission is vested with power and jurisdiction to super-
300 vise and regulate every public utility and to do all things neces-
sary and convenient in the exercise of such power and jurisdiction.
Laws 1907, ch. 499, sec. 1797m-2.

301 Also a provision for public utilities substantially identical
with par. 237. *Same, sec. 1797m-37.*

*2. Authority of Commission to Enter upon the Premises and
Examine the Property of Public Utilities, and to Hold Investi-
gations with Regard to the Affairs and General Condition¹ Thereof.*

UNITED STATES Commission shall investigate any complaint
forwarded by the railroad commissioner or railroad commission
of any state or territory at the request of such commissioner or
commission, and the interstate commerce commission may at any
time institute an inquiry, on its own motion, in any case and as
to any matter or thing concerning which a complaint is author-
ized to be made, to or before commission by any provision of this
302 act, or concerning which any question may arise under any of the
provisions of this act, or relating to the enforcement of any of
the provisions of this act. Commission shall have the same pow-
ers and authority to proceed with any inquiry instituted on its
own motion as though it had been appealed to by complaint or
petition under any of the provisions of this act, including the
power to make and enforce any order or orders in the case, or re-
lating to the matter or thing concerning which the inquiry is had
excepting orders for the payment of money. *Act to Regulate
Commerce, sec. 13.*

Commission may by one or more of the commissioners, pros-
ecute any inquiry necessary to its duties, in any part of the United
303 States, into any matter or question of fact pertaining to the busi-
ness of any common carrier. *Same, sec. 19.*

¹ Certain provisions for the special examination of railroad companies are found as follows:

ALABAMA Upon the application in writing of a director or of persons owning one-
fiftieth part of the entire paid-in capital stock of any corporation operating a railroad, or of
303 the bonds or other evidences of indebtedness of such corporation, equal in amount to one-
fiftieth part of its capital stock, commission shall make an examination into the books and
financial condition of such corporation, and may in its discretion, cause the results of its ex-
amination to be published in one or more newspapers in this state. *Code 1907, sec. 3665.*

MASSACHUSETTS Upon the application in writing of a director, or of any person or persons
who own one-fiftieth part of the paid-in capital stock of a corporation or company which
operates a railroad or railway, or who own the bonds or other evidences of indebtedness of
304 such corporation or company equal in amount to one-fiftieth part of its paid-in capital stock,
commission shall examine the books and the financial condition of said corporation or com-
pany, and shall cause the result of such examination to be published in one or more daily
newspapers in the city of Boston. *Acts 1906, ch. 463, pt. i, sec. 16.*

SOUTH CAROLINA On the application in writing of a director or of any person or persons
owning one-fiftieth part of the entire paid-in capital stock of any corporation operating a rail-
road, or the bonds or other evidences of indebtedness of such corporation equal in amount to
305 one-fiftieth part of its paid-in capital stock, commission shall make an examination into the
books of said corporation. *Gen. Stats. 1902, sec. 2080.*

ALABAMA

Commission or one or more members thereof shall visit the county seat of every county in the state at least once a year, for the purpose of hearing and receiving complaints, and examining and inquiring into and securing information as to the conduct and management of the several railroads in the state, connections with other railroads, and accommodations of passengers, delays and inconveniences by reason of improper connection, the provisions as to depots, switch tracks, sidings, passenger stations, and accommodations required by law. Notice shall be given of the time when such visits will be made by circular letters to the several county officers for at least two weeks before such visit, and also by publication in a newspaper when commission shall so order. *Code 1907, sec. 5644.*

ARIZONA

Commission, and the several members thereof, may inspect and investigate the property, books, papers, business, methods, and affairs of any corporation whose stock shall be offered for sale to the public, and of any public service corporation doing business within the state, and for the purpose of commission and of the several members thereof, shall have the power of a court of general jurisdiction to enforce the attendance of witnesses and the production of evidence by subpoena, attachment, and punishment, which said power shall extend throughout the state. Commission may take testimony under commission or deposition either within or without the state. *Const., art. xv, sec. 4.*

See also par. 2466.

ARKANSAS

See par. 2563.

CALIFORNIA

See par. 2466.

COLORADO

Commission may by any one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the state and in any matter or question of fact pertaining to the business of any common carrier, or to violations of this act by shipper, consignee, applicant for cars or agent or either of them, subject to the provisions of this act. *Laws 1910, sp. sess., ch. 5, sec. 18.*

CONNECTICUT

The commissioners and their employes engaged in the performance of their duties as such may, at all reasonable times, enter any premises, buildings, cars, or other places belonging to or controlled by any public service company, and any person obstructing or in any way causing to be obstructed or

hindered any member or employe of commission in the performance of his duties as such shall be fined not more than \$200, or imprisoned not more than six months, or both. *Pub. Acts 1911, ch. 128, sec. 8.*

See also pars. 2566, 2568, 2796.

FLORIDA

See pars. 418, 622, 2798, 3503, 3720.

GEORGIA

Commission may through any one or more of its members, at its direction, make personal visitation to the offices and places of business of said companies for the purpose of examination, and commissioner or commissioners may
371 examine the agents and employes of said companies, under oath or otherwise, in order to procure information deemed by the commissioners necessary to their work or of value to the public.

Code 1911, sec. 2663.

See also par. 2800.

ILLINOIS

Commission shall examine into conditions and management and all other matters concerning the business of railroads, other common carriers and warehouses so far as the same pertains to the relation of such roads, other common carriers and warehouses to the public and to the accommodation and security of persons doing business therewith and whether such railroad companies, other common carriers and warehouses, their
372 officers, directors, managers, lessees, agents and employes comply with the laws of this state now in force or which shall hereafter be in force concerning them. And whenever it shall come to their knowledge either upon complaint or otherwise or they shall have reason to believe that any such law or laws have been or are being violated they shall prosecute or cause to be prosecuted all corporations or persons guilty of such violation. *Revisal 1909, ch. 114, sec. 177.*

Commission may inquire into the business management of all common carriers, their passenger and freight rates, distribution of cars, granting of sidings, location of passenger and freight stations, use of and compensation for cars owned or controlled by them, the relations of such carriers to the public, and of the
373 public and public corporations to common carriers; the interrelation between such common carriers, in so far as any such subject so to be inquired into shall affect or have any bearing upon the transportation of persons or property between points wholly within the state; it may receive complaints from shippers for loss or damage to property in the hands of common carriers and make inquiry as to methods and manner of adjustment of said claims;

and commission may make and enforce such orders as will secure the safety and accommodation of persons and property being transported by common carriers and as will prevent unnecessary or unreasonable obstruction to or interfere with the tracks, yards, locomotives and cars of common carriers. *Same, sec. 196.*

Commission may hear and determine all questions arising under this act, upon giving due notice to all persons, individuals
374 or corporations interested therein, and enter an order in relation thereto. *Same, sec. 197.*

See also pars. 2805, 3937.

INDIANA

Commission shall have authority to inquire into the management of the business of all common carriers and shall keep itself informed as to the manner and method
375 in which the same is conducted, and shall have the right to obtain from such carrier full and complete information necessary to enable it to perform the duties and carry out the objects for which it was created. *Acts 1907, ch. 241, sec. 17.*

See also par. 2945.

IOWA

See par. 2575.

KANSAS

See par. 264.

KENTUCKY

See par. 2814.

LOUISIANA

See par. 2576.

MAINE

See par. 2577.

MARYLAND

Commission may, of its own motion, investigate or make inquiry in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad, street railroad, railroad or street railroad corporation, or other corporation, and commission must make such inquiry in regard to any act or thing done or omitted to be done by
376 any such common carrier or corporation in violation of any provision of law, or in violation of any order of commission. *Laws 1910, ch. 180, sec. 22.*

Commission may examine the books and affairs of any such corporation or person (gas, electric, telephone, and telegraph
377 utilities), and compel the production before it of books and papers pertaining to the affairs being investigated by it. *Same, sec. 31¾, 39.*

Commission may either through its members or inspectors
378 or employes duly authorized by it, enter in or upon and inspect the property, buildings, plants, factories, power houses and

offices of any telephone and telegraph corporations or persons engaged in such business. *Same, sec. 39.*

See also pars. 269, 270, 272, 274, 925, 2470, 2472.

MASSACHUSETTS Upon the application of the board of aldermen of a city or the selectmen of a town within which a part of any railroad or railway is located, alleging grounds of complaint, commission shall examine the condition and operation of such railroad or railway; and if, upon the petition in writing of 20 or more legal voters in such city or town to the board of aldermen or selectmen to make such application, they refuse so to do, they shall indorse upon the petition the reason for such refusal, and return it to the petitioners, who may, within ten days thereafter, present
379 it to commission, and it may thereupon make such examination as if called upon by the board of aldermen or selectmen, first giving to the petitioners and to the corporation or company reasonable notice in writing of the time and place of making such examination. If, upon such examination, it appears to commission that the complaint is well founded, it shall so adjudge, and shall in writing inform the corporation or company which operates such railroad of its adjudication. *Acts 1906, ch. 463, pt. i, sec. 10.*

See also pars. 276, 277, 278, 2586, 2587, 2588.

MICHIGAN

See pars. 287, 935, 2589.

MINNESOTA

One of the commissioners shall visit the stations on the lines of each railroad as often as practicable, giving 20 days' notice in the local newspapers of the time and place of each visit, and personally inquire into the management of such railroad business, and at least once each year shall visit every county having a railroad station, and inquire into the management of such railroad business. For this purpose all common carriers and their officers and employes are required to furnish
380 such commissioner with reasonable and proper facilities. Each commissioner, in his official capacity may pass free on all railroad trains and at all suitable times may enter and remain in the cars, offices, or depots of any railroad company; and whenever, in the judgment of commission, any common carrier fails in any respect to comply with the laws, or any repairs are necessary upon its railroad, or any reasonable addition to or change of its stations, station houses, or transfer facilities, or change in the mode of operating its road or conducting its business, will promote the security or convenience of the public, commission, by a

written order, to be served as a summons in civil actions, shall require compliance with such law, or the making of such repairs, additions or change. In case of disobedience of said order commission may cause an action to be commenced for the enforcement thereof. *Rev. Laws 1905, sec. 1962.*

See also par. 951.

MISSISSIPPI

Commission shall from time to time as far as practicable visit all stations on the various lines of railroad, and investigate the manner in which bulletin-boards are posted and kept, how reception-rooms are arranged and kept, how rates for freight and passengers are posted, and such other things as it may deem proper to investigate; and it shall take notice of every neglect or failure by a railroad company to comply with the law
231 and the rules, orders and regulations of commission, and enforce a strict observance thereof. It shall be unlawful for commission or any one of them to give notice to any railroad official or any one else of a purpose at any given day or date to make examination of any railroad as above required. Further, it shall be unlawful for commission or any one of them to travel as the guest of any railroad official on a private car on a tour of inspection. *Code 1906, sec. 4858.*

One or more of commissioners, at least once in every year, shall visit each county through which a railroad runs, and there remain at least one entire day; and he or they shall inquire into all violations of law relating to common carriers, hear all complaints, may summon persons to give evidence thereof and shall note all complaints and evidence of violations of law; and thereafter commission shall institute proceedings as the law directs for such violations. At such visits commission shall inquire into the needs of the community, and to what extent, if any, it is discrim-
232 inated against in freight, passenger, express or telegraph rates; and if they find that the products of a community are unprofitable to the producers by reason of excessive transportation charges, or the people of the community otherwise unjustly discriminated against, commission shall take such action as is authorized by law to remedy the evil. And commission shall at all times exercise its power in the direction of affording cheap transportation of agricultural products raised in this state to other parts thereof where they may be sold. The commissioners shall give ten days' notice of their visits required by this section to the public in the community to be visited. *Laws 1908, ch. 83, sec. 1.*

See also pars. 294, 2590, 2591.

MISSOURI

Commission, either upon its own motion or upon the complaint of any individual, firm, company or corporation, may investigate all charges of any violations of any of the provisions of this article, and shall have power to send for persons and papers, administer oaths and examine and compel the attendance of witnesses, and if, in its judgment, there be reasonable evidence of any violation of any of the provisions of this article commission shall transmit such evidence to the attorney general of the state. *Rev. Stats. 1909, sec. 3290.*

Commission shall examine into the condition and management and all matters concerning the business of warehouses and elevators under this article in this state so far as the same may pertain to the relations of such warehouses and elevators to the public and to the security and convenience of persons doing business therewith, and to ascertain whether the officers, directors, managers, lessees, agents and employes comply with the laws of this state now in force or to be in force concerning such warehouses or elevators. Whenever it shall come to their knowledge or they shall have reason to believe that any law governing the public warehouses or elevators of this state under this article is being or has been violated they shall cause to be prosecuted or prosecute all persons guilty of such violation. *Same, sec. 6818.*

To enable commission efficiently to perform its duties under this article, it is hereby made its duty to cause one or more of its number, at least once in six months, to visit each warehouse or elevator in this state, and to personally inquire into the management of such warehouse or elevator business. *Same.*

See also pars. 961, 2592.

MONTANA

See par. 297.

NEBRASKA

See pars. 299, 2593.

NEW HAMPSHIRE Commission may either through its members or duly authorized experts, inspect any of the property or equipment, books or records of any railroad corporations, including the right for such inspection purpose to ride upon any locomotive or train while in service, and to have upon reasonable notice a special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each railroad corporation in the state. *Laws 1911, ch. 164, sec. 5(b).*

Also a provision for railroad corporations and public utilities identical with par. 376. *Same, sec. 10 (b).*

See also par. 983.

NEW JERSEY Commission may investigate, upon its own
388 initiative or upon complaint in writing, any matter concerning
any public utility. *Laws 1911, ch. 195, sec. 16(a).*

See also par. 2513.

NEW MEXICO *See pars. 3543, 3544.*

NEW YORK Provisions for common carriers, railroad and
street railroad corporations, and telegraph or telephone corpora-
389 tions, identical with par. 376. *Laws 1910, ch. 480, secs. 48(1),
96(1).*

Each commission may either through its members or re-
sponsible engineers or inspectors duly authorized by it, enter in
or upon and inspect the property, equipment, buildings, plants,
factories, power houses and offices of any such corporations or
persons, including the right for such inspection purpose to ride
upon any freight locomotive or train, or any passenger locomotive
390 or train while in service; and may have upon reasonable notice
the use of an inspection locomotive or special locomotive and in-
spection car for a physical inspection once annually of all the
lines and stations of each common carrier under its supervision.
Same, sec. 45(2).

Each commission may either through its members or in-
spectors or employes duly authorized by it, enter in or upon and
391 inspect the property, buildings, plants, factories, power houses,
ducts, conduits and offices of any of such corporations, persons or
municipalities. *Same, sec. 66(8).*

392 Each commission may enter and inspect the plant of a gas
or electrical corporation wherever situated. *Same, sec. 76.*

Commission may either through its members or inspectors
or employes duly authorized by it enter in or upon and inspect
393 the property, equipment, buildings, plants, factories, offices,
apparatus, machines, devices and lines of any telegraph or tele-
phone corporation. *Same, sec. 94(2).*

See also pars. 309, 311, 312, 990, 2484.

NORTH CAROLINA Commission shall from time to time visit the
places of business, and investigate the books and papers of all
corporations, firms, or individuals engaged in the transportation
394 of freight or passengers and the transmission of messages either
by telegraph or telephone, to ascertain if all the orders, rules and
regulations of commission have been complied with. *Pell's Re-
visal 1908, sec. 1064.*

See also pars. 2595, 2900.

NORTH DAKOTA Commission shall at such times as the governor may direct examine any particular subject connected with the condition and management of railroads and report to him in writing its opinion thereon with its reasons therefor. Commission shall also investigate and consider what, if any, amendment
395 or revision of the railroad laws of this state the best interests of the state demand and it shall make a special biennial report on such subject to the governor. All such reports made to the governor shall be by him transmitted to the legislative assembly at the earliest practicable time. *Rev. Codes 1905, sec. 4366.*

See also pars. 317, 318.

OHIO If upon complaint, or otherwise, commission has reason to believe that a railroad or any officer, agent, or employe thereof has violated or is violating any law of the state, or
395 if it has reason to believe that differences have arisen between citizens of the state and any railroad operating as a common carrier within the state, it shall examine into the matter. *Code 1910, sec. 601.*

Commission either through its members or inspectors or employes duly authorized by it may enter in or upon, for purposes of inspection, any property, equipment, building, plant,
397 factory, office, apparatus, machinery, device and lines of any public utility. *Laws 1911, no. 325, sec. 10.*

See also pars. 324, 2597, 3472.

OREGON *See pars. 227, 2526, 2600, 2771.*

PENNSYLVANIA The commissioners or any of them in the performance of their official duties or any person in the office of commission and specially delegated by commission for that purpose,
395 may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any common carrier, and may examine books and affairs of any such common carrier. *Laws 1907, no. 250, sec. 10.*

See also pars. 228, 333.

RHODE ISLAND The commissioners, the attorney general and the agents of commission, as provided in section 13, while engaged in the performance of their duties, may at all reasonable
395 times enter any premises, buildings, cars, plant or equipment, or other places belonging to or controlled by any public utility, and inspect the same or any part thereof, and any person obstructing, hindering or in any way causing to be obstructed or hindered any

commissioner or the attorney general or any agent of commission in the performance of his duties, or who shall refuse to permit any commissioner, the attorney general or any agent of commission entrance into any premises, buildings, cars, plant or equipment, or other places belonging to or controlled by any public utility, in the performance of his duties as such, shall be deemed guilty of a misdemeanor and fined not more than \$500 nor less than \$200. *Acts 1912, ch. 795, sec. 14.*

SOUTH CAROLINA Upon complaint and application of the mayor and aldermen or council of any city, town or county board of commissioners of any county within which any part of any railroad is located, it shall be the duty of commission to make an examination of the condition and operation thereof. Before proceeding to make such examination in accordance with such application, commission shall give to the applicants and the railroad corporation reasonable notice, in writing, of the time and place of entering upon the same. If, upon such examination, it shall appear to commission that the complaint alleged by the applicant is well founded, they shall so adjudge, and shall inform the corporation operating such railroad of their adjudication, in the same manner as is provided in section 2068 of this chapter; and the company failing for 60 days after such notice to remove the cause of such complaint, it shall make report thereof to the general assembly for such action as it may deem expedient; or if there be necessity for prompt action, it may take such legal proceedings as may be proper, and the attorney general shall institute and conduct such proceedings. *Gen. Stats. 1902, sec. 2070.*

It shall be the duty of commission when necessary to investigate so much of the books and papers of all the railroad companies doing business in this state as it may think proper, to ascertain if the rules and regulations have been complied with, and to make personal visitations of railroad offices, stations and other places of business for the purpose of examinations and to make rules and regulations concerning such examinations, which rules and regulations shall be observed and obeyed as other rules and regulations. *Same, sec. 2082.*

See also pars. 336, 2918, 3020.

SOUTH DAKOTA Commission shall cause every warehouse and the business thereof, and the mode of conducting the same, to be inspected at such times as commission may order by one or more members of commission, who shall report in writing to

commission the result of such examination; and the property, books, records, accounts, papers and proceedings kept at each warehouse, so far as they relate to their condition, operation or management, shall at all times during business hours be subject to the examination and inspection of commission; and commission may, in all matters arising under the provisions of this law, exercise the power to subpoena and examine witnesses conferred upon commission by law in relation to railroad companies. *Rev. Pol. Code 1903, sec. 490.*

See also pars. 343, 344, 2774.

TENNESSEE The commissioners shall inform themselves fully and thoroughly in regard to the affairs of every railroad
403 company doing business in this state. *Acts 1897, ch. 10, sec. 8(1), as amended by Acts 1907, ch. 390, sec. 2.*

See also par. 2929.

TEXAS It shall be the duty of commission to investigate all complaints against railroad companies subject hereto, and
404 to enforce all laws of this state in reference to railroads. *Sayles' Civ. Stats. 1897, art. 4579(1).*

VERMONT Commission shall at least once annually examine the roadbed, bridges, depots, rolling stock and equipment of every railroad in the state, and shall, by examinations and
405 investigations, keep itself informed as to the condition, manner of operation and safety of all railroads, and shall see that they comply with the provisions of their charters and the laws of this state. *Pub. Stats. 1906, sec. 4602.*

The members of commission and the clerk may enter during business hours the offices, depots, cars and upon the railroads of
406 any person or corporation operating a railroad within this state, so far as may be necessary in the discharge of their duties. *Same, sec. 4605.*

Commission may, whenever it deems the public good requires, examine the plants, equipment, lines, exchanges, stations and property subject to its supervision under this act. *Laws 1908, no. 116, sec. 3.*

The members of commission and any person in its employ
408 and by its direction may during business hours enter the offices, plants, exchanges and stations or upon the land or lines of any company subject to the provisions of this act. *Same, sec. 4.*

VIRGINIA

Commission shall examine all the railroads and the works and equipment thereof, and the works and equipment of all other transportation companies, and keep itself informed as to their physical condition and the manner in which they are operating with reference to the security and accommodation of the
409 public, and the compliance of the several companies with the provision of their charters and the laws of the commonwealth. And the provision of this section shall apply to all railroads and other transportation companies, and to the corporations, trustees, receivers, or other person owning or operating the same. *Pol-*
lard's Code 1904, sec. 1313a(18).

Upon the complaint and application of the mayor or council of any city or town, or the board of supervisors of any county within which any part of any transportation or transmission line is located, it shall be the duty of commission to make an examination of the physical condition and operation thereof. Before proceeding to make such examination in accordance with such application, commission shall give to the applicants and the corporation or person operating any such line reasonable notice in
410 writing, of the time and place of entering upon the same. I upon such examination it shall appear to commission that the complaint alleged by the applicant is well founded, it shall so adjudge and shall notify such corporation or person of its adjudication; and if such corporation or person fail for 60 days after such notification to remove the cause of complaint, commission shall impose the fines and penalties provided by the constitution and by law for its failure to obey the orders and requirements of commission, and enforce the collection thereof by its judgments and processes. *Same, sec. 1313a(21).*

See also pars. 356, 2937.

WISCONSIN

See par. 2539, 2775.

3. *Authority of Commission to Examine Under Oath the Officers, Agents or Employes of Public Utilities and to Inspect the Books, Records and Memoranda Thereof.*

UNITED STATES

See pars. 2686, 2752.

ALABAMA

Commission or any commissioner, or any person or persons employed by commission for that purpose shall,
411 upon demand, have the right to inspect the books and papers of any transportation company, and to examine under oath any officer, agent or employe of such transportation company in rela-

tion to its business and affairs; provided, that any person other than one of the commissioners who shall make such demand shall produce his authority to make such inspection under the hand of the commissioner, or of the secretary, and under the seal of commission. *Code 1907, sec. 5661.*

See also pars. 363, 2688, 2754, 2999.

ARIZONA

Commission, each commissioner and each officer and person employed by commission shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public service corporation,¹ and commission, each commissioner and any officer of commission or any employe authorized to administer oaths shall have power to examine under oath any officer, agent or employe of such public service corporation in relation to the business and affairs of such public service corporation; provided, that any person other than a commissioner or an officer of commission demanding such inspection shall produce under the hand and seal of commission his authority to make such inspection; and, provided, further, that a written record of the testimony or statement so given under oath shall be made and filed with commission. *Sess. Laws 1912, ch. 90, sec. 58.*

See also pars. 368, 3298.

ARKANSAS

The commissioners or either of them shall have the right at such times as they may deem necessary to inspect the books and papers of any railroad company, and to examine under oath any officer, agent or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the commissioners or either of them to examine its books and papers, said railroad company shall for each offense pay the state not less than \$100 nor more than \$500 for each day it shall so fail and refuse. *Kirby's Digest 1904, sec. 6821.*

Any officer, agent or employe of any railroad company who shall upon proper demand fail or refuse to exhibit to the commissioners or either of them any book or paper of such railroad company which is in the possession or under the control of such officer, agent or employe shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction

¹ The records, books, and files of all public service corporations, state banks, building and loan associations, trust, insurance, and guaranty companies shall be at all times liable and subject to the full visitatorial and inquisitorial powers of the state, notwithstanding the immunities and privileges secured in the declaration of rights of this constitution to persons, inhabitants, and citizens of this state. *Const., art. xiv, sec. 16.*

thereof shall be fined for each offense a sum not less than \$100 nor more than \$500. *Same, sec. 6822.*

CALIFORNIA Identical with par. 412, except that "public
418 service corporation" reads "public utility." *Stats. 1911, 1st. ex. sess., ch. 14, sec. 58.*

See also pars. 3298, 4517.

COLORADO Commission shall at all times have access to all accounts, records and memoranda kept by common carriers, and it may employ special agents or examiners who shall have
416 authority, under order of commission, to inspect and examine any and all accounts, records and memoranda kept by such common carriers. This provision shall apply to receivers of common carriers and operating trustees. *Laws 1910, sp. sess., ch. 5, sec. 18.*

In case of failure or refusal on the part of any common carrier, receiver or trustee to submit such accounts, records or memoranda as are kept to the inspection of commission, or any
417 of its authorized agents or examiners, such common carriers, receivers or trustees shall forfeit to the state the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act. *Same.*

CONNECTICUT *See par. 2795.*

FLORIDA Commission shall investigate the books and papers of all railroads, railroad companies and common carriers to ascertain if the rules and regulations have been complied with, and they may make personal visitation of railroad offices, stations and other places of business, for the purpose of examination
418 and to make rules and regulations concerning such examinations, which rules and regulations shall be observed and obeyed as other rules and regulations. *Gen. Stats. 1906, sec. 2904.*

Commissioners shall have full power and authority to examine all agents and employes of railroads, railroad companies and common carriers and other persons under oath or otherwise in order to procure the necessary information to
419 make just and reasonable rates for freight and passenger tariffs and to ascertain if rules and regulations are observed or violated and to make necessary and proper rules and regulations concerning such examinations, which rules and regulations shall

be obeyed and enforced as other rules and regulations provided for in this chapter. *Same, sec. 2905.*

See also par. 2755.

GEORGIA

It shall be the duty of commission to investigate the books and papers of all the railroad companies doing business in this state, to ascertain if the rules and regulations have been complied with, and to make personal visitation of railroad offices, stations, and other places of business for the purpose of examination, and to make rules and regulations concerning such examination, which rules and regulations shall be observed and obeyed as other rules and regulations; commission shall also have full power and authority to examine all agents and employes of said railroad companies, and other persons, under oath or otherwise, in order to procure the necessary information to make just and reasonable rates of freight and passenger tariffs, and to ascertain if such rules and regulations are observed or violated, and to make necessary and proper rules and regulations concerning such examinations, and which rules and regulations herein provided for shall be obeyed and enforced as all other rules and regulations provided for in this article. *Code 1911, sec. 2633.*

See also pars. 371, 2693, 3298.

ILLINOIS

The property, books, records, accounts, papers and proceedings of all railroad companies, other common carriers, and all public warehousemen, shall at all times during business hours be subject to the examination and inspection of commissioners, and they shall have power to examine under oath or affirmation any and all directors, officers, managers, agents and employes of any such railroad corporation or other common carrier, and any and all owners, managers, lessees, agents and employes of such public warehouses and other persons, concerning any matter relating to the condition and management of such business. The commissioners or any of them in the performance of their official duties, or any person specially delegated by commission for that purpose, may enter and remain during business hours in the cars, offices, depots, and upon the railroads or in vessels, or in and upon any of the instrumentalities used by common carriers in and about the transportation of persons or property between points wholly within the state, and may examine the books and affairs of such common carrier, and in all proceedings before commission under a complaint duly filed, or

upon a proceeding begun by commission upon its own motion, commission shall have power to require by subpoena the attendance and the testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements and documents relating in any matter embraced within such complaint or proceedings. Information so obtained shall not be admitted in evidence or used in any other proceeding. *Revisal 1909, ch. 114, sec. 179.*

See also par. 2806.

INDIANA

In any matter or controversy under investigation by commission, the commissioners or either of them, or such person or persons as they may employ therefor, shall have the right at such times as they may deem necessary to inspect the books and papers or other documents of any railroad company, and to examine under oath any officer, agent, or employe of such railroad company in relation to the business and affairs of the same; and commissioners or either of them, or such other person as may be employed by them, shall also have the right to exercise like powers as to all other persons or corporations
422 having books, papers, documents or information bearing upon such investigation. If any railroad company, or such other person or corporation, shall refuse to permit the commissioners or either of them, or any person authorized thereto, to examine its books and papers or other documents, such railroad company, or other person or corporation, shall, for each offense, pay to the state not less than \$100 nor more than \$500 for each day it, or he, shall so fail or refuse; provided, that any person other than one of commissioners who shall make any such demands shall produce his authority, under the seal of commission, to make such inspection. *Burns' Annot. Stats. 1908, sec. 5539.*

Any officer, agent or employe of any railroad company, or any other person or corporation, who shall upon proper demand fail or refuse to exhibit to the commissioners or either of them, or any person authorized to investigate the same, any book, paper
423 or other documents of such railroad company, or any other person, or corporation, which is in the possession or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than \$100 and not to exceed \$500. *Same, sec. 5539(a).*

IOWA

Commission shall have power in the discharge of its duties to examine any of the books, papers or documents of

any railway corporation, or to examine under oath or otherwise any officer, director, agent or employe thereof; to issue subpoenas—the cost thereof as well as the investigation to be first paid by the state, upon the certificate of commission—and to enforce obedience thereto in the performance of its duties as courts of law
424 may. Any person who shall wilfully obstruct it or its members in the performance of their duties, or who shall refuse to give any information within his possession that may be required by them within the line of their duty, shall be guilty of a misdemeanor, and upon conviction may be fined not exceeding \$1000 in the discretion of the court. *Code 1897, sec. 2115.*

KANSAS

The commissioners shall have power in the discharge of the duties of their office to examine any of the books, papers or documents of any such company or corporation¹ or to examine under oath or otherwise any officer, director, agent or employe thereof, or any other person. The commissioners or either of them are empowered to issue subpoenas and to administer oaths; and any person who may wilfully obstruct com-
425 missioners or either of them in the performance of their duties, or who may refuse to give any information within their possession that may be required by commissioners within the line of their duty, shall be deemed guilty of a misdemeanor, and shall be liable on conviction thereof to a fine of not less than \$100 nor more than \$1000 in the discretion of the court; the cost of such subpoenas and investigation to be paid by the state on the certificate of commission. *Gen. Stats. 1909, sec. 7187.*

See also par. 2758.

KENTUCKY

Commission shall have the power to examine under oath any person or the directors, officers, agents and employes of any railroad corporation concerning the management of its affairs, and to obtain information pursuant to this law; and shall have the power to issue subpoenas for the attendance of witnesses and to administer oaths; and any person who shall
426 neglect or refuse to obey the process of subpoenas issued by commission, or who being in attendance shall refuse to testify, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than \$50 nor more than \$100, or by imprisonment of not less than ten nor more than 50 days, or both, in the discretion of the jury. *Carroll's Stats. 1909, sec. 827.*

¹ See par. 264 for utilities to which this provision applies.

MARYLAND

Commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any corporation, company, association, person or partnership subject to its supervision, in so far as they relate to the matters over which said commission has jurisdiction and control, and by subpoena duces tecum, to compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the commission or any commissioner, may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. *Laws 1910, ch. 180, sec. 13.*

Commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its provision [supervision?], and by subpoena duces tecum to compel the production thereof. In lieu of requiring production of originals by the subpoena duces tecum, commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. *Same, sec. 20.*
See also pars. 377, 2759, 3298.

MASSACHUSETTS *See pars. 364, 2700, 2704, 2706, 2707, 3008, 3010.*

MICHIGAN

Commission or any commissioner or any person or persons employed by commission for that purpose shall upon demand have the right to inspect the books and papers of any common carrier, and to examine under oath any officer, agent or employe of such common carrier in relation to any matter which is the subject of complaint or investigation; provided, that any person other than one of commissioners who shall make such demand shall produce his authority to make such inspection under the hand of commission or its secretary, and under the seal of commission. *Pub. Acts 1909, no. 300, sec. 28(c).*

See also pars. 2954, 3299.

MINNESOTA

It is hereby made the duty of commission to keep itself informed as to whether common carriers in this state are granting rebates or in other particulars are failing to comply with the laws of this state. For this purpose power is conferred on commission, or its agent, to at any proper time make thorough and full examination of all books, vouchers, papers and accounts of any and all common carriers of this state. Any officer, agent

or employe of any railroad company in charge of such books, vouchers, papers and accounts who shall fail or refuse to submit the same for examination of commission, or its agent, shall be guilty of misdemeanor. The provisions of this section shall in no way interfere with the duties of the public examiner. *Laws 1905, ch. 176, sec. 8.*

See also par. 641.

MISSOURI The property, books, records, accounts, papers and proceedings of all such warehousemen or elevatormen as are contemplated by this article shall at all times during business hours be subject to the examination and inspection of
481 commission or any one of commissioners, and they or any one of them shall have power to examine, under oath, any owner, manager, lessee, agent or employe of a public warehouse, and any other person, concerning the condition and management of such warehouse or elevator. *Rev. Stats. 1909, sec. 6819.*

See also pars. 811, 3528.

MONTANA *See par. 297.*

NEBRASKA The chairman and each of the commissioners shall have power to administer all oaths, certify to all official acts, to compel the attendance of witnesses, to examine any of the books, papers, documents and records of any railway company or common carrier, or have such examination made by any person or persons that they may employ for that purpose, to compel the production of such books, papers, documents and records, or
482 to examine under oath or otherwise any officer, director, agent or employe of any railway company or common carrier or any other person; provided, that any person or persons employed by commission to examine said books, papers, documents or records shall produce his authority under the hand and seal of commission to make such examination. *Cobbey's Annot. Stats. 1909, sec. 10650(j).*

See also pars. 2761, 2762, 2763, 3300.

NEVADA For railroads, identical with par. 429. *Stats. 1907, ch. 44, sec. 18(b).*

See also pars. 2764, 2875, 2958, 2960.

NEW HAMPSHIRE *See pars. 386, 983.*

NEW MEXICO *See par. 2882.*

NEW YORK A provision identical with par. 428. *Laws 1910, ch. 480, sec. 45(3).*

Commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of
435 any telegraph or telephone corporation, and by subpoena duces tecum to compel the production thereof, or of duly verified copies of the same or of any of them. *Same, sec. 94(3).*

See also pars. 990, 2722, 2765, 2767, 2768, 3300.

NORTH CAROLINA *See par. 394.*

NORTH DAKOTA The commissioners shall have power in the discharge of the duties of their office to examine any of the books, papers, or documents of any such person, company or corporation, or to examine under oath or otherwise any officer, director, agent or employe thereof, and any person who may wilfully obstruct
436 commissioners in the performance of their duties, or who may refuse to give any information within his possession that may be required by commissioners within the line of their duty, shall be deemed guilty of a misdemeanor, and shall be liable on conviction thereof to a fine not exceeding \$1000 in the discretion of the court. *Rev. Codes 1905, sec. 4364.*

OHIO A provision for railroads substantially identical with par. 429. *Code 1910, sec. 558.*

Commission or its duly authorized agent may examine any officer, agent or employe of a railroad or of such other companies,
438 under oath, relative to the stock which he has in any of such companies, and his pecuniary interests direct or indirect therein. *Same, sec. 603.*

Commission shall have power either through its members or by inspectors or employes duly authorized by it to examine under oath at any time and for assisting commission in the performance of any powers or duties of commission, any officer, agent or employe of any public utility or railroad or any other person in relation to the business and affairs of such utility, and to compel the attendance of such witness for the purpose of such examination. In case of disobedience on the part of any person
439 or persons to comply with any order relating to the production or examination of books, contracts, records, documents and papers, or in case of the refusal of any person to testify to any matter regarding which he may be lawfully interrogated by any such member, employe or inspector of commission at any time or place, it shall be the duty of the common pleas court of any county, or any judge thereof, on application of any member of commission, to compel obedience by contempt proceedings as in

the case of the disobedience of the requirements of subpoena issued from such court or a refusal to testify therein. *Laws 1911, no. 325, sec. 8.*

Commission shall have power either through its members or by inspectors or employes duly authorized by it, to examine all books, contracts, records, documents and papers of any public utility, and by subpoena duces tecum to compel the production thereof, or of duly verified copies of the same or any of them, and to compel the attendance of such witnesses as commission may require to give evidence at such examination. *Same, sec. 9.*

See also pars. 2769, 2963, 2965, 2968, 3300.

OKLAHOMA

Commission shall have the right at all times to inspect the books and papers of all transportation and transmission companies doing business in this state. *Const., art. ix, sec. 18.*

The commissioners or either of them, or such persons as they may employ therefor, shall have the right at such times as they may deem necessary, to inspect the books and papers of any railroad company or other public service corporation, and to examine under oath any officer, agent, or employe of such corporations in relation to the business and affairs of the same. If any railroad company or other public service corporation shall refuse to permit the commissioners or either of them, or any person authorized thereto, to examine its books and papers, such railroad company or other public service corporation, shall, until otherwise provided by law, for each offense, pay to the state not less than \$125 nor more than \$500 for each day it shall so fail or refuse, and the officer or other members so refusing shall be punished as the law shall prescribe. *Same, sec. 28.*

OREGON

A provision for railroads identical with par. 443 411. *Gen. Laws 1907, ch. 53, sec. 41.*

Commission, or any commissioner, or any person or persons employed by commission for that purpose, shall upon demand have the right to inspect the books, accounts, papers, records and memoranda of any public utility, and to examine under oath any officer, agent, or employe of such public utility in relation to its business and affairs. Any person other than one of commissioners who shall make such demand, shall produce a certificate under the seal of commission showing his authority to make such inspection. *Gen. Laws 1911, ch. 279, sec. 36.*

See also pars. 2771, 2772.

PENNSYLVANIA

See par. 398.

SOUTH CAROLINA *See pars. 365, 401, 849, 3020.*

SOUTH DAKOTA Commissioners are hereby empowered and directed to at any time enter any public warehouse during ordinary business hours, or any office in which the books and accounts of any public warehouse are kept, and shall have the power to examine all of the books relating to the transaction of business of such public warehouse, either within or without the state; it is hereby made the duty of each public warehouseman to give commission free access to all such books and accounts upon demand. *Sess. Laws 1907, ch. 209, sec. 1.*

Any public warehouseman who shall refuse access to his books and accounts, or who shall hinder or delay commission, or any member thereof, from examining the same, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not greater than \$100, and commission shall revoke the license of such public warehouseman. *Same, sec. 2.*

Commission or any member thereof shall have power in the discharge of the duties of their office, to examine any of the books, papers, or documents of any common carrier, or to examine under oath or otherwise any officer, director, agent or employe of any such common carrier. Commission, or any of its members, is hereby empowered to issue subpoenas to compel the attendance of witnesses before such commission or member, and to administer oaths; and any person who may wilfully obstruct commission, or any member thereof, in the performance of its or his duties, or who may refuse to give any information within his possession that may be required by commission or member within the line of its or his duty, shall be deemed guilty of a misdemeanor and shall be liable on conviction thereof to a fine not exceeding \$1,000 in the discretion of the court; the costs of such investigation to be first paid by the state on the certificate of commission. *Sess. Laws 1911, ch. 207, sec. 3.*

See also pars. 402, 2773.

TENNESSEE Commission is given full power and authority to examine the books and papers of the railroad companies, and to examine under oath the officers, agents and employes of such companies and any other persons, to procure the necessary information to intelligently and justly discharge their duties and carry out the provisions of this act. *Acts 1897, ch. 10, sec. 8.*

TEXAS The commissioners or either of them, or such persons as they employ therefor, shall have the right at such

times as they may deem necessary, to inspect the books and papers of any railroad company, and to examine under oath any officer, agent, or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the commissioners or either of them, or any person authorized thereto, to examine its books and papers, such railroad shall for each offense pay to the state not less than \$125 nor more than \$500 for each day it shall so fail or refuse; provided that any person other than one of commissioners who shall make any such demands shall produce his authority, under the hand and seal of commission, to make such inspection. *Sayles' Civ. Stats. 1897, art. 4569.*

Commission shall have authority, and it shall be its duty to call upon express companies for reports, and investigate their books in the same manner as may be prescribed by law for the regulation of railroad companies, and commission shall have power and authority to institute suits, sue out such writs and process as may be applicable and authorized for the regulation of railroad companies. All laws, rules and regulations made and prescribed for the government and control of railroads in so far as they are applicable shall be of equal force and effect against all express companies. *Same, art. 4584.*

Any officer, agent or employe of any railroad company who shall upon proper demand fail or refuse to exhibit to commissioners or either of them, or any person authorized to investigate the same, any book or paper of such railroad company which is in the possession or under the control of such officer, agent or employe shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than \$125 and not to exceed \$500. *White's Penal Code, art. 1007.*

See also par. 2930.

VERMONT

See pars. 3022, 3024.

VIRGINIA

A provision identical with par. 441. *Const., sec. 156(b).*

WASHINGTON

Commission and each commissioner, or any person employed by commission, shall have the right at any time and all times to inspect the accounts, books, papers and documents of any public service company, and commission or any commissioner may examine under oath any officer, agent, or employe of such public service company in relation thereto and with reference to the affairs of such company; provided, that any

person other than a commissioner who shall make any such demand, shall produce his authority from commission to make such inspection. *Laws 1911, ch. 117, sec. 77.*

See also par. 2774.

WISCONSIN

A provision for railroads identical with par. 411; also provisions for public utilities substantially identical with par. 444. *Laws 1905, ch. 362, sec. 1797-18(b); Laws 1907, ch. 499, secs. 1797m-38(1), 1797m-38(2).*

See also pars. 2775, 2975, 2978, 3301, 3302.

4. Authority of Commission over Allied Businesses.

NEW YORK

In case any electrical or gas corporation is engaged in carrying on any business other than owning, operating or managing a gas or an electric plant, which other business is not otherwise subject to the jurisdiction of commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such gas or electric plant, said corporation in respect of such other business shall not be subject to any of the provisions of this chapter and shall not be required to procure the assent or authorization of commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of commission in respect to the owning, operating, managing or controlling by such corporation of such gas or electric plant, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such gas or electric plant as distinguished from such other business. In any such case, if the owning, operating, managing, or controlling of such gas or electric plant by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, commission, may by general rules exempt such corporation from making full reports and from the keeping of accounts as to such subsidiary and incidental business. *Laws 1910, ch. 480, sec. 66(13).*

5. Territorial Jurisdiction of Commission.

NEW YORK

There are hereby created two public service districts, to be known as the first district and the second dis-

trict. The first district shall include the counties of New York, Kings, Queens and Richmond. The second district shall include all other counties of the state. *Laws 1910, ch. 480, sec. 3.*

There shall be a public service commission for each district, and each commission shall possess the powers and duties herein-
487 after specified, and also all powers necessary or proper to enable it to carry out the purposes of this chapter. *Same, sec. 4.*

The jurisdiction, supervision, powers and duties of commission in the first district shall extend, under this chapter: (a) to railroads and street railroads lying exclusively within that district, and to the persons or corporations owning, leasing or operating the same; (b) to street railroads any portion of whose lines lies within that district, to all transportation of persons or property thereon within that district or from a point within either district to a point within the other district, and to the persons or corporations owning, operating or leasing the said street railroads; provided, however, that commission for the second district shall have jurisdiction over such portion of the lines of said street railroads as lies within the second district, and over the persons or corporations owning, operating or leasing the same, so far as concerns the construction, maintenance, stationary
488 equipment, terminal facilities, stations and local transportation facilities of said street railroads within the second district; (c) to such portion of the lines of any other railroad as lies within that district, and to the person or corporation owning, leasing or operating the same, so far as concerns the construction, maintenance, stationary equipment, terminal facilities, stations and local transportation facilities, and local transportation of persons or property within that district; (d) to any common carrier other than a railroad corporation or street railroad corporation operating or doing business within that district, so far as concerns operations exclusively within that district; (e) to the manufacture, sale or distribution of gas or electricity for light, heat or power, in the first district, to gas plants and to electric plants therein, and to the persons or corporations owning, leasing or operating the same. *Same, sec. 5(1).*

And in addition thereto, commission in the first district shall have and exercise all powers heretofore conferred upon the board of rapid transit railroad commissioners under chapter four of the laws of 1891, entitled "An act to provide for rapid transit rail-
489 ways in cities of over one million inhabitants," and the acts amendatory thereof, together with such other and necessary

powers as may be requisite to the efficient performance of the duties imposed upon said board by said act. *Same, sec. 5(2).*

400 All jurisdiction, supervision, powers and duties under this chapter not specifically granted to the public service commission of the first district shall be vested in, and be exercised by, the public service commission of the second district, including the regulation and control of all transportation of persons or property, and the instrumentalities connected with such transportation, on any railroad other than a street railroad, from a point within either district to a point within the other district. *Same, sec. 5(3).*

401 A corporation or person owning or holding a majority of the stock of a common carrier, gas corporation or electrical corporation subject to the jurisdiction of commission shall be subject to the supervision of the same commission in respect of the relations between such common carrier, gas corporation or electrical corporation and such owners or holders of a majority of the stock thereof, in so far as such relations arise from or by reason of such ownership or holding of stock thereof, or the receipt or holding of any money or property thereof, or from or by reason of any contract between them; and in respect of such relations shall, in like manner and to the same extent as such common carrier, gas corporation or electrical corporation, be subject to examination of accounts, records and memoranda, and shall furnish such reports and information as commission shall from time to time direct and require, and shall be subject to like penalties for default therein. *Same, sec. 5(4).*

402 The jurisdiction, supervision, powers and duties of the public service commission in the second district shall extend, under this chapter, to every telephone line which lies wholly within the state of New York and that part within the state of New York of every telephone line which lies partly within and partly without the state of New York, and to the persons or corporations owning, leasing or operating any such telephone line. *Same, sec. 5(5), as amended by Laws 1910, ch. 673.*

403 The jurisdiction, supervision, powers and duties of the public service commission in the second district shall extend, under this chapter, to every telegraph line which lies within the state of New York and that part within the state of New York of every telegraph line which lies partly within and partly without the state of New York, and to the persons or corporations owning, leasing or operating any such telegraph line. *Same, sec. 5(6), as amended by Laws 1910, ch. 673.*

Corporations formed to acquire property or to transact business which would be subject to the provisions of this chapter, and corporations possessing franchises for any of the purposes contemplated by this chapter, shall be deemed to be subject to the provisions of this chapter although no property may have been acquired, business transacted or franchises exercised. *Same, sec. 5(7), as amended by Laws 1910, ch. 673.*

Any railroad corporation or common carrier other than a street railroad corporation, operating partly within the second district and partly within the first district, shall report to commission of the second district; but commission of the first district may, upon reasonable notice, require a special report from such railroad corporation or common carrier. Any street railroad corporation operating partly within the first district and partly within the second district shall report to commission of the first district; but commission of the second district may, upon reasonable notice, require a special report from such street railroad corporation. *Same, sec. 46.*

Whenever it shall happen that any railroad corporation shall own or operate its lines in both districts it shall, under this section (approval of issues of stock, bonds and other form of indebtedness), apply to commission of the second district. Whenever it shall happen that any street railroad corporation shall own or operate its lines in both districts it shall, under this section, apply to commission of the first district. Any other common carrier not operating exclusively in the first district shall apply to commission of the second district. *Same, sec. 55.*

Any freight terminal company, the limits of the locality in which it is organized to do business include any portion of the city of New York, shall be subject to the supervision, control and regulation of the public service commission of the first district. *Laws 1911, ch. 778, sec. 156.*

See also par. 2890.

6. *Authority of Pre-existing Boards or Administrative Officers
Conferred on Commission.*

CALIFORNIA

See par. 3163.

CONNECTICUT

The office of railroad commissioner is hereby abolished, and all rights, powers and duties heretofore vested in the railroad commissioners and not inconsistent with other provisions of this act are hereby transferred to and continued in the public utilities commission herein created; and all orders hereto-

fore made by said railroad commissioners shall continue in force, except as hereafter altered or until reversed or rescinded by said public utilities commission; and all books, records and other papers of the railroad commissioners are hereby transferred to the public utilities commission. *Pub. Acts 1911, ch. 128, sec. 12.*

469 The office of inspector general of gas meters and illuminating gas is hereby abolished and the duties heretofore invested in said officer shall hereafter be performed by commission. *Same, sec. 19.*

KANSAS

All laws relating to the powers, duties, authority and jurisdiction of the board of railroad commissioners are hereby adopted, and all powers, duties, authority and jurisdiction
470 by said laws imposed and conferred upon said board of railroad commissioners, relating to common carriers, are hereby imposed and conferred upon the commission created under the provisions of this act. *Laws 1911, ch. 238, sec. 2.*

MASSACHUSETTS The powers and duties heretofore conferred and imposed upon the inspector of gas meters and illuminating gas are hereby conferred and imposed upon the board of gas and
471 electric light commissioners. The care and custody of all property of the commonwealth in the possession of said inspector are hereby transferred to said board. *Acts 1902, ch. 228, sec. 1.*

MICHIGAN

All powers, duties and privileges imposed and conferred under existing laws upon the commissioner of railroads, the railroad and street crossing board, the crossing board as defined by section 6232 of the compiled laws of 1897, and the board of railway consolidations as defined by section 6255 of the compiled laws of 1897, and upon the Michigan railroad commission under existing laws are hereby imposed and conferred upon the commission created under the provisions of this act; and wherever in said acts or either of them the commissioner of railroads, the railroad and street crossing board, the crossing board, and the board of railway consolidations, the Michigan railroad commission, or either of said officials or boards, are named, the same shall be construed to mean and apply to and name the Michigan railroad commission created by this act; provided, that the powers and duties conferred upon the Michigan
472 railroad commission by act 312 of the public acts of 1907, shall continue to be exercised by that commission until the commission provided in section one of this act has qualified and organized; provided further, that all hearings, investigations and complaints pending upon the organization of the com-

mission provided for in section one of this act which shall have been begun by or before the commission organized under act 312 of the public acts of 1907, may be continued and orders issued therein in all respects the same as if the complaints presented, investigations made and hearings held by the commission operating under act 312 of 1907, had been presented to, made by and held by the commission created under section one of this act. All tariffs and schedules now on file with the Michigan railroad commission created by said act 312 shall be of the same effect as if filed with the commission created by this act. *Pub. Acts 1909, no. 300, sec. 49.*

NEW HAMPSHIRE All the powers and duties imposed and conferred upon the board of railroad commissioners under existing laws, except in so far as inconsistent with the powers and duties imposed by this act, are imposed and conferred upon the public service commission created by this act, and all proceedings and appeals which under existing laws are required to be
473 brought before the board of railroad commissioners shall hereafter be brought before said commission, it being the intent hereof to substitute said public service commission with all the powers and duties imposed upon the same by this act in the place of said board of railroad commissioners; provided, however, that the powers and duties of the board of railroad commissioners shall continue to be exercised by that board till June 1, 1911, until which date said board of railroad commissioners now in office shall continue to serve at their present salary, and on which date the powers of said board shall terminate and said board shall be abolished. *Laws 1911, ch. 164, sec. 3(a).*

On June 1, 1911, the board of railroad commissioners shall transfer and deliver to the public service commission appointed
474 under the provisions of this act all books, maps, papers, files, and records of whatever description in its possession. *Same, sec. 3(b).*

NEW YORK On and after July 1, 1907, the board of railroad commissioners and the commission of gas and electricity shall be abolished. All the powers and duties of such board and commis-
475 sion conferred and imposed by any statute of this state shall be exercised and performed by the public service commissions. *Laws 1910, ch. 480, secs. 120, 121.*

On and after July 1, 1907, the offices of inspector and deputy inspectors of gas meters shall be abolished. All the powers and

476 duties of such inspector conferred and imposed by any statute of this state shall be exercised and performed by the public service commissioners. But any meter inspected, proved and sealed by the said inspector of gas meters prior to July 1, 1907, shall be deemed to have been inspected by commission. *Same, sec. 122.*

On and after July 1, 1907, the board of rapid transit railroad commissioners shall be abolished. All the powers and duties of 477 such board conferred and imposed by any statute of this state shall thereupon be exercised and performed by the public service commission of the first district. *Same, sec. 123.*

See also par. 459.

The board of railroad commissioners, the commission of gas and electricity, and the inspector of gas meters, shall transfer and deliver to the public service commission of the second dis- 478 trict all books, maps, papers, and records of whatever description, in their possession on July 1, 1907; and the said commission is authorized to take possession of all such books, maps, papers, and records. *Same, sec. 124(1).*

The board of rapid transit railroad commissioners shall transfer and deliver to the public service commission of the first district all contracts, books, maps, plans, papers and 479 records of whatever description, in their possession on July 1, 1907; and the said commission is authorized to take possession of all such contracts, books, maps, plans, papers and records. *Same, sec. 124(2).*

The public service commission of the second district may transfer to the public service commission of the first district 480 any of the said books, maps, papers, and records which relate to any corporation, person or matter within the jurisdiction of the public service commission of the first district. *Same, sec. 124(3).*

Whenever the terms board of railroad commissioners, or commission of gas and electricity or inspector of gas meters or board of rapid transit railroad commissioners occur in any law, contract or document or wherever in any law, contract or docu- 481 ment reference is made to such boards, commission or inspector, such terms or reference shall be deemed to refer to and include the public service commissions as established by this chapter so far as such law, contract or document pertains to matters which are within the jurisdiction of the said public service commis- sions. *Same, sec. 126.*

RHODE ISLAND All the powers and duties conferred by law upon and required to be performed by the railroad commissioner or his deputy at the time of the passage of this act, shall hereafter
482 devolve upon and be exercised and performed by the public utilities commission. All restrictions not inconsistent with the provisions of this act, imposed by law upon any railroad or street railway corporation, heretofore subject to regulation by the railroad commissioner, shall continue in full force and effect and all other things made subject to the regulation or requiring the sanction or approval of said railroad commissioner, and all proceedings of transactions of whatever nature to which the railroad commissioner is by law made a party, shall hereafter be subject to full regulation and performance by the said commission, in accordance with the provisions and limitations prescribed in this act.
Acts 1912, ch. 795, sec. 55.

SOUTH DAKOTA The office of telephone inspector is hereby abolished. The duties heretofore devolving upon that officer are
483 hereby conferred upon the board of railroad commissioners.
Sess. Laws 1911, ch. 217, sec. 1.

VIRGINIA Upon the organization of commission, the board of public works and the office of railroad commissioner,
484 shall cease to exist; and all books, papers and documents pertaining thereto, shall be transferred to, and become a part of the records of, the office of commission. *Const., sec. 156(k).*

Commission is hereby charged with all the duties and vested with all the rights, property, functions and powers heretofore performed, vested in, and exercised by the board of public works, except in so far as the same may be in conflict with the constitution and laws of this state, and commission shall particularly
485 perform the duties and exercise the powers heretofore performed and exercised by said board, prescribed in section 59 to 78 inclusive, of this act. *Pollard's Code 1904, sec. 1313a(56).*

WASHINGTON The railroad commission of Washington shall transfer and deliver to the public service commission hereby
486 created all books, maps, papers, and records, furniture, equipment, instruments and supplies in its possession at the date of the taking effect of this act. *Laws 1911, ch. 117, sec. 110.*

WISCONSIN All powers, duties and privileges imposed and conferred upon the railroad commissioner of this state under existing laws are hereby imposed and conferred upon commission
487

created under the provisions of this act. *Laws 1905, ch. 362, sec. 1797-36.*

B. AUTHORITY OF COMMISSION TO HOLD HEARINGS ON PROPOSED CHANGES OF LAW AND MAKE RECOMMENDATIONS WITH RESPECT THERETO.

MARYLAND

Commission shall conduct a hearing and take testimony as to the advisability of any proposed change of law relating to any common carrier, railroad, street railroad, railroad or street railroad corporation, or other corporation subject to the provisions of this act if requested to do so by the legislature, by the senate, or general assembly, or the governor, and may conduct such a hearing, when requested to do so, by any person or corporation, and shall report its conclusions to the officer, body, person or corporation at whose request the hearing was held. Commission may also recommend the enactment of such legislation with respect to any further matter within its jurisdiction as it deems wise or necessary in the public interest, and may draft or cause to be drafted such bills or acts as it may deem necessary or proper to enact into law the legislation recommended by it. *Laws 1910, ch. 180, sec. 20.*

MICHIGAN

Commission shall conduct a hearing and take testimony as to the advisability of any proposed change of law relative to any matter within its jurisdiction if requested to do so by the legislature, by the senate or house committee on railroads, or by the governor, and shall report its conclusions to the officer or body at whose request the hearing was held. Commission may also recommend the enactment of such legislation, with respect to any matter within its jurisdiction, as it deems wise or necessary in the public interest, and may draft or cause to be drafted such bills or acts as it may deem necessary or proper to enact into law the legislation recommended by it. *Pub. Acts 1909, no. 300, sec. 50.*

NEW YORK

Each commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of commission, if requested to do so by the legislature or by either branch thereof or by a standing committee of either branch thereof or by the governor or by any such person or corporation,

and shall report its conclusions to the legislature. Commission may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest. *Laws 1910, ch. 480, sec. 16(2).*

PENNSYLVANIA Commission may take testimony upon, and have a hearing for and against any proposed change of law relating to common carriers, or of the general railroad law, if requested to do so by the secretary of internal affairs, the legislature, or by the committee on railroads of the senate or house of representatives, or by the governor; and may take such testimony, and have
491 such a hearing, when requested by any of said common carriers, corporation, or person interested; and shall recommend and draft such bills as will, in its judgment, protect the interests of the public in connection with common carriers. *Laws 1907, no. 250, sec. 11.*

VIRGINIA *See par. 4521.*

C. AUTHORITY OF COMMISSION TO ARBITRATE OR MEDIATE IN CONTROVERSIES AFFECTING PUBLIC UTILITIES.

CONNECTICUT Nothing in this act shall be construed to authorize commission to interfere in any manner with contracts
492 between public service companies and their employes. *Pub. Acts 1911, ch. 128, sec. 36.*

NEW MEXICO Commission shall endeavor by mediation to effect settlements of grievances of persons, associations, corporations or carriers against railroads or common carriers. In case no satisfactory settlement be effected commission shall on motion
493 by petitioners, or of its own motion, order a public hearing upon the matter set forth in the petition, which hearing shall be held not less than ten days after service of notice thereof upon defendant. *Laws 1912, ch. 78, sec. 2.*

NORTH CAROLINA Whenever any company or corporation embraced in this chapter has a controversy with another corporation or person and all the parties to such controversy agree in writing to submit such controversy to commission as arbitrators, commission shall act as such, and after due notice to all parties interested shall proceed to hear the same, and their award shall be
494 final. Such award in cases where land or an interest in land is

concerned shall immediately be certified to the clerk of the superior court of the county in which said land is situated and shall by such clerk be docketed in the judgment docket for such county and from such docketing shall be a judgment of the superior court for such county. Parties may appear in person or by attorney before such arbitrators. *Pell's Revisal 1908, sec. 1073.*

OKLAHOMA Upon the request of the parties interested, it shall be the duty of commission, as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies, between transportation or transmission companies and their patrons or employees. *Const., art. ix, sec. 18.*

OREGON In case of any dispute or disagreement between any bonded employe or employees of any railroad, which dispute shall result in the discharge or termination of the services of said bonded employe or employees, it shall be the duty of said railroad to furnish to such bonded employe or employees so discharged upon request, a copy of the charges filed against said employe or employees, as a result of which the services of said employe or employees shall have been discontinued; provided, however, that if no written charges have been filed against such employe or employees as a result of which their services shall have been terminated, it shall be the duty of said railroad to furnish the employe or employees so discharged with a written statement of the reasons for the discharge of said employe or employees within five days from the date of the termination of the services of said employe or employees. *Gen. Laws 1911, ch. 139, sec. 1.*

Should the said railroad fail to furnish to said bonded employe or employees a copy of the charges filed against said employe or employees or fail to furnish in writing to said employe or employees, a written statement of the charges against him giving the reasons for his or their discharge within five days from the date of the termination of said services, then and in that event the said employe or employees may complain thereof to commission for the purpose of determining the reasons for said discharge and in case said bonded employe or employees are charged with any offense involving moral turpitude upon complaint being made by any bonded employe or employees as aforesaid that the cause of the discharge was untrue, commission shall notify the railroad complained of that complaint has been made and ten days after such complaint commission shall proceed to investigate same; provided, however, that before proceeding to make such investi-

gation commission shall give the railroad and the complainant or complainants ten days' notice of the time and place when and where such complaint will be considered and determined and said parties shall be entitled to be heard and shall have process to enforce attendance of witnesses and to compel the said railroad to present before commission at the time and place of said hearing all the documentary evidence in the possession of said railroad bearing upon the complaint filed against it, and if upon such investigation and hearing it shall appear to commission that the charge against the said employe or employes was untrue commission shall make a finding of fact to that effect recommending the reinstatement of said employe or employes and furnishing a copy thereof to the complainant. *Same, sec. 2.*

Commission for the purpose mentioned in this act shall have the power: (a) To administer oaths; (b) to certify to official acts; (c) issue subpoenas to compel the attendance of witnesses; (d) to provide for the production of papers, contracts, books, accounts, documents and testimony; (e) to provide for the disobedience on the part of any person, or persons, to comply with the orders of commission, or any commissioner, in respect thereto, or any refusal of any witness to testify to any matter regarding which he may be lawfully interrogated; (f) to provide for the fees and mileage of witnesses; (g) to punish said witness, or witnesses for the disobedience of any subpoena issued by commission upon any hearing held in accordance with this act; and (h) generally to provide for the taking of testimony, and for the recording of the proceedings held before commission in accordance with the provisions of this act. *Same, sec. 3.*

It shall be the duty of the circuit court of any county of the state, or the judge thereof, on application of commission, or of any commissioner, to compel the attendance of witnesses before commission in hearings in accordance with this act, by attachment proceeding, or contempt, as in the case of the disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein. *Same, sec. 4.*

Any person, or persons, who shall neglect or refuse to attend before commission in accordance with this act, and testify or to answer any legal inquiry, or to produce books, papers, contracts, accounts, or documents within his power to do so, in obedience to the subpoena or lawful requirements of commission as herein provided for, shall be guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, shall be pun-

ished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail of not more than one year, or by both said fine and imprisonment. *Same, sec. 5.*

D. AUTHORITY OF COMMISSION TO VISIT AND CONFER WITH OTHER REGULATING BODIES.¹

INDIANA When in judgment of governor expressed in a written order to commission, which order shall be entered of record in their minutes, it will better qualify the members of commission to discharge their duties, they or either of them designated in order of commission, may visit the railroad commission of other cities or the interstate commerce commission or may attend the meetings of the national association of railway commissioners or the sessions of committees of such associations or the sessions of other railroad organizations having under consideration subjects which concern the duties of such commission. *Acts 1907, ch. 241, sec. 2(a).*

KANSAS Commission may confer with officers of other states and officers of United States on any matter pertaining to their official duties. *Laws 1911, ch. 238, sec. 9.*

MICHIGAN Commission may confer by correspondence, by attending conventions, or otherwise, with the railroad commissioners of other states, with the interstate commerce commission or with any other bodies considering any matters pertaining to common carriers. *Pub. Acts 1909, no. 300, sec. 2(m).*

NEVADA Commission may confer by correspondence or by attending conventions or otherwise with the railroad commissioners of other states and with the interstate commerce commission on any matters relating to railroads. *Stats. 1907, ch. 44, sec. 1(m) as amended by Stats. 1911, ch. 193.*

¹ **ALABAMA** Commissioners on notice by the governor shall attend the meetings of the state board of assessment, and, if required, give such board all information they can that will assist them in the assessment of taxes against persons or corporations operating railroads. *Code 1907, sec. 5635.*

MARYLAND It shall be the duty of every public officer without exacting or receiving charge or fee of any kind to furnish to commission upon its application a certified copy of any document or part thereof on file in his office, and no public officer shall be entitled to receive from commission any fee for entering, filing, docketing or recording any document required or authorized by law to be filed in his office. *Laws 1910, ch. 180, sec. 9.*

OHIO Commission shall, whenever called upon by any officer, board or commission now existing or hereafter created in the state or any political subdivision thereof, furnish any data or information to such official, board or commission and shall aid or assist any such officer, board or commission in performing the duties of his or its office, and all officers, boards or commissions now existing or hereafter created in the state or any political subdivision thereof, shall furnish to commission, upon request, any data or information which will assist such commission in the discharge of the duties imposed upon it by this act. *Laws 1911, no. 325, sec. 81.*

NEW HAMPSHIRE Commission may confer by correspondence or otherwise with the public service commission or railroad commission of any other state and with the interstate commerce commission of the United States on any matters relating to railroads or public utilities. *Laws 1911, ch. 164, sec. 2(n).*

OHIO Commission may confer on any matters relating to railroads by correspondence or by attending conventions or otherwise with the railroad commissioners of other states and with the interstate commerce commission. *Code 1910, sec. 500.*

OREGON Commission may confer by correspondence, or by attending conventions, or otherwise, with the railroad commissioners of other states, and with the interstate commerce commission, on any matters relating to railroads. *Gen. Laws 1907, ch. 53, sec. 10.*

TENNESSEE Commission shall, by correspondence, conventions or otherwise, confer with the railroad commissioners of other states and the interstate commerce commission, and from such persons from states which have no railroad commission, as the governor of such states may appoint for the purpose of agreeing, if practicable, upon a draft of statutes to be submitted to the legislature of each state, which shall secure uniform control of railroad transportation in the several states, and from one state into or through another state, as will best subserve the interest of trade and commerce of the whole country, and said commission shall include in their annual report to the governor an abstract of the proceedings of any such conference or convention. *Acts 1897, ch. 10, sec. 29.*

WISCONSIN Commission may confer by correspondence or by attending conventions or otherwise with the railroad commissioners of other states and with the interstate commerce commission on any matters relating to railroads. *Laws 1905, ch. 362, sec. 1797-1(m).*

CHAPTER III

Basis of Rate Making

SCOPE NOTE

This chapter includes provisions prescribing that rates must be reasonable and indicating the various elements to be considered and the various devices that may be adopted by utilities and commissions in the establishment of reasonable rates. Provisions on valuation are here included because it is believed that the most important purpose of ascertaining the value of utility property is as a guide to rate making. For provisions authorizing commissions to regulate or prescribe rates, see ch. iv, on establishment and change of rates. For provisions requiring publicity in the establishment and change of rates, see ch. v, on publicity of rates. For provisions regulating rate making in practice, see ch. vi, on discrimination in rates and service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

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A. GENERAL REQUIREMENTS AS TO REASONABLENESS OF RATES

UNITED STATES All charges made for any service rendered or to be rendered in the transportation of passengers or property and for the transmission of messages by telegraph, telephone, or cable, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or
513 any part thereof is prohibited and declared to be unlawful; provided, that messages by telegraph, telephone or cable may be classified into day, night, repeated, unrepeatd, commercial, press, government and such other classes as are just and reasonable and different rates may be charged for the different classes of messages. *Act to Regulate Commerce, sec. 1.*

ALABAMA Whenever passengers or property are transported over two or more connecting lines of railroad and the railroad companies have made joint rates for the transportation of the same such rates and all charges in connection therewith shall be just and reasonable and every unjust and unreasonable
514 charge is prohibited and is unlawful; provided, that a less charge by each of said railroads for its proportion of such joint rates than is made locally between the same points on their respective lines shall not for that reason be a violation of this article, nor render such railroads or common carriers liable to any of the penalties thereof. *Code 1907, sec. 5533.*

Charges made for any service rendered or to be rendered in the transportation of passengers or property or for any
515 service in connection therewith or for the receiving, switching, delivering, storing or handling of such property, shall be reasonable and just. *Same, sec. 5650.*

Any person or corporation operating a railroad who commits extortion in transportation charges must, on conviction, be
516 fined not less than \$10 nor more than \$500. *Same, sec. 7688.*

ARIZONA All charges made, demanded or received by any public service corporation or by any two or more public service corporations for any product or commodity furnished
517 or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or

service is prohibited and declared unlawful. *Sess. Laws 1912, ch. 90, sec. 13(a).*

518 All rules and regulations made by a public service corporation affecting or pertaining to its charges or service to the public shall be just and reasonable. *Same, sec. 13(c).*

CALIFORNIA Provisions for public utilities identical with
519 pars. 517, 518. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 13(a), 13(c).*

COLORADO All charges made for any service rendered or to be rendered in the transportation of passengers or property
509 in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful. *Laws 1910, sp. sess., ch. 5, sec. 3.*

FLORIDA If any railroad company or common carrier shall charge, collect, demand or receive more than a fair or reasonable rate of toll or compensation for the transportation of passengers or freight of any description, or for the use and
521 transportation of any railroad car upon its tracks, or any of the branches thereof, or upon any railroad which it has the right, license or permission to use, operate or control, the same upon conviction shall be dealt with as provided by law. *Gen. Stats. 1906, as amended, sec. 2888.*

See also par. 249.

GEORGIA For railroad corporations identical with Florida provision, except that "the same upon conviction shall be
522 dealt with as provided by law" reads "the same shall be deemed guilty of extortion, and upon conviction shall be dealt with as provided by law." *Code 1911, sec. 2628.*

ILLINOIS A provision identical with par. 522. *Revisal*
523 *1909, ch. 114, sec. 124.*

Any such railroad corporation guilty of extortion or of making any unjust discriminations as to passenger or freight rates or the rates for the use and transportation of railroad cars, or in receiving, handling and delivering freights, shall upon
524 conviction be fined in any sum not less than \$1,000 nor more than \$5,000 for the first offense; and for the second offense not less than \$5,000 nor more than \$10,000; and for the third offense not less than \$10,000 nor more than \$20,000; and for

every subsequent offense and conviction shall be liable to a fine of \$25,000; provided that in all cases either party shall have the right of trial by jury. *Same, sec. 127.*

The fines hereinbefore provided for may be recovered in an action of debt, in the name of the people of the state of Illinois, and there may be several counts joined in the same declaration as to extortion and unjust discrimination, and as to passenger and freight rates, and rates for the use and transportation of railroad cars, and for receiving, handling or delivering freight. If, upon the trial of any cause instituted under this act, the jury shall find for the people, they shall assess and return with their verdict the amount of the fine to be imposed upon the defendant, at any sum not less than \$1,000 nor more than \$5,000, and the court shall render judgment accordingly; and if the jury shall find for the people, and that the defendant had once before been convicted of a violation of the provisions of this act, they shall return such finding with their verdict, and shall assess and return with their verdict the amount of the fine to be imposed upon the defendant, at any sum not less than \$5,000 nor more than \$10,000 and the court shall render judgment accordingly; and if the jury shall find for the people and that the defendant has been twice before convicted of a violation of the provisions of this act, with respect to extortion or unjust discrimination, they shall return such finding with their verdict, and shall assess and return with their verdict the amount of the fine to be imposed upon the defendant, at any sum not less than \$10,000 nor more than \$20,000; and in like manner, for every subsequent offense and conviction, such defendant shall be liable to a fine of \$25,000: Provided, that in all cases under the provisions of this act a preponderance of evidence in favor of the people shall be sufficient to authorize a verdict and judgment for the people. *Same, sec. 128.*

If any railroad corporation shall in violation of any of the provisions of this act ask, demand, charge or receive of any person or corporation any extortionate charge or charges for the transportation of any passengers, goods, merchandise, or property, or for receiving, handling or delivering freights, or shall make any unjust discrimination against any person or corporation in its charges therefor, the person or corporation so offended against may, for each offense, recover of such railroad corporation, in any form of action, three times the amount of damages sustained by the party aggrieved, together with the

cost of the suit and a reasonable attorney's fee to be fixed by the court where the same is heard, on appeal or otherwise, and taxed as a part of the cost of the case. *Same, sec. 129.*

IOWA

All charges made for any service rendered or to be rendered in the transportation of passengers or property or for the receiving, delivering, storage or handling of such
587 property shall be reasonable and just and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful. *Code 1897, sec. 2123.*

If any railway corporation or carrier shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description, or for the use and transportation of any railway car upon its track or any of the branches thereof, or upon any railroad which it has the right, license or permission
588 to use, operate or control, or shall make any unjust and unreasonable charge prohibited by law, it shall be deemed guilty of extortion, and be dealt with as provided by law, and if any such railroad corporation or common carrier shall be found guilty of any unjust discrimination, it shall upon conviction thereof, be dealt with as provided by law. *Same, sec. 2144.*

Any railway company guilty of extortion, or of making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling or delivering freights, shall be fined in any sum
589 not less than \$1,000 nor more than \$5,000 for the first offense, and for each subsequent offense not less than \$5,000 nor more than \$10,000, such fine to be imposed in a criminal prosecution by indictment, or to be recovered as a forfeiture in a civil action in the name of the state. *Same, secs. 2147, 2148.¹*

Every unjust and unreasonable charge for the transportation of freight and cars over two or more railroads is prohibited and every company making such unreasonable and unlawful
590 charges, or otherwise violating the provisions of this chapter, shall be punished as provided for the making of unreasonable charges for the transportation of freight and cars over a single line of railroad by a single railway company. *Same, sec. 2157.*

¹ When commission has reason to believe that any railway corporation or carrier subject to the provisions of this chapter has been guilty of extortion or unjust discrimination, it shall immediately cause actions to be commenced and prosecuted against such railway corporations or carrier, which may be brought in any county of the state through or into which the line of the corporation sued may extend, and it may on behalf of the state employ counsel to assist the attorney general in conducting such actions. No actions thus commenced shall be dismissed unless they and the attorney general consent thereto. The court in its discretion may give preference to such actions over all other business, except criminal cases. *Code 1897, sec. 2149.*

KANSAS

No railroad company shall charge, demand or receive from any person, company or corporation an unreasonable price for the transportation of persons and property or for the hauling or storing of freight or for the use of its cars or for any privilege of its service afforded by it in the transaction of its business as a railroad company. *Gen. Stats. 1909, sec. 7199.*

Every common carrier and public utility shall be required to establish just and reasonable rates, joint rates, fares, tolls, charges and exactions and to make just and reasonable rules, classifications and regulations; and every unjust or unreasonable, discriminatory or unduly preferential rule or regulation, classification, rate, joint rate, fare, toll, or charge demanded, exacted or received by a common carrier or a public utility is prohibited and declared to be unlawful and void. *Laws 1911, ch. 238, sec. 10.*

KENTUCKY

If any railroad corporation shall charge, collect, or receive more than a just and reasonable rate of toll or compensation for the transportation of passengers or freight or for the use of any railroad car upon its tracks or upon any track it has control of or the right to use, it shall be guilty of extortion. *Carroll's Stats. 1909, sec. 816.*

Any railroad corporation guilty of extortion or unjust discrimination, or of giving to any person or locality or to any description of traffic, an undue or unreasonable preference or advantage shall upon conviction be fined for the first offense in any sum not less than \$500 nor more than \$1,000; and upon a second conviction, in any sum not less than \$500 nor more than \$2,000; and upon a third conviction, in any sum not less than \$2,000 nor more than \$5,000. *Same, sec. 819.*

Railroad corporations shall also be liable in damages to the party aggrieved to the amount of damages sustained, together with the cost of suit and reasonable attorney's fees, to be fixed by the court. *Same.*

Indictments shall be made only upon the recommendation or request of commission filed in the court having jurisdiction of the offense; and all prosecutions and actions shall be commenced within two years after the offense shall have been committed or the cause of action shall have accrued. *Same.*

MARYLAND

All charges made or demanded by any common carrier for the transportation of passengers, freight or property or for any service rendered or to be rendered in connection

therewith shall be just and reasonable and not more than allowed
537 by law or by order of commission conformably with the law.
Every unjust or unreasonable charge made or demanded for any
such service or transportation of passengers, freight or property
or in connection therewith or in excess of that allowed by law or
by order of commission conformably with the law is unlawful and
prohibited. *Laws 1910, ch. 180, sec. 13.*

All charges made or demanded by any gas or electrical
corporation for gas, electricity or any service rendered or to be
538 rendered shall be just and reasonable and not more than al-
lowed by law or by order of commission. Every unjust or un-
reasonable charge made or demanded for gas, electricity or any
such service or in connection therewith or in excess of that
allowed by law or by the order of commission is prohibited.
Same, sec. 31½.

All rates, tolls, and charges used, made or demanded by
any telegraph or telephone company for any telegraphic or
539 telephonic communication or service shall be just and reasonable
and not more than allowed by law or by order of commission and
made as authorized by law. *Same, sec. 40.*

MICHIGAN All charges made for any service in connection
with the transportation of passengers and property or for the
receiving, switching, delivering, storing, transporting or hand-
540 ling of persons or property shall be reasonable and just and
every unjust and unreasonable charge for such service is pro-
hibited and declared to be unlawful. *Pub. Acts 1909, no. 300,*
sec. 4 (a).

541 Also a provision identical with par. 514. *Same, sec. 4(c).*

All charges made for any service rendered, furnished or
performed or to be rendered, furnished or performed by any
542 telephone company shall be reasonable and just and every unjust
and unreasonable charge for such service is prohibited and de-
clared to be unlawful. *Pub. Acts 1911, no. 138, sec. 3.*

MINNESOTA All charges made by any carrier for the trans-
portation of passengers or property whether over one or more
railroads or in connection therewith or for the receiving, de-
543 livering, storage or handling of such property shall be equal and
reasonable and every unequal or unreasonable charge for such
service is prohibited. *Rev. Laws 1905, sec. 2007.*

MISSOURI All charges made for any service rendered in
544 the transportation of freight on railways including the receiving,

delivering, storing and handling of such property shall be reasonable and just and all unreasonable and unjust charges for such service are prohibited and declared unlawful. *Rev. Stats. 1909, sec. 3179.*

545 Rates established and published by common carriers shall be reasonable and just and shall not in any case exceed the maximum rates which are or may hereafter be established by law. *Same, sec. 3187.*

NEVADA

Charges made for any service rendered or to be rendered in the transportation of passengers or property or for any service in connection therewith or for the receiving, switch-
546 ing, delivering, storing or handling of such property shall be reasonable and just and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful. *Stats. 1907, ch. 44, sec. 3.*

547 Also a provision identical with par. 514. *Same, sec. 5.*

Charges by any public utility for any heat, light, water or power produced, transmitted, delivered or furnished or for any
548 service to be rendered as or in connection with any public utility shall be reasonable and just and every unjust and unreasonable charge is prohibited and declared unlawful. *Stats. 1911, ch. 162, sec. 5.*

NEW HAMPSHIRE All charges made or demanded by any railroad corporation for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith and all charges made and demanded by any public utility for the transmission of telephone or telegraph messages or for
549 gas, electricity or water or any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than is allowed by law or by order of commission. Every charge that is unjust or unreasonable or in excess of that allowed by law or by order of commission is prohibited. *Laws 1911, ch. 164, sec. 4.*

NEW JERSEY No public utility shall make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential, individual or joint rate, commutation rate, mileage and other special rate, toll, fare, charge or schedule for any
550 product or service supplied or rendered by it or adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate or toll, fare, charge or

schedule for any product or service rendered by it. *Laws 1911, ch. 195, secs. 18 (a), 18 (b).*

NEW YORK All charges made or demanded by any common carrier for the transportation of passengers or property or for any service rendered or to be rendered in connection therewith, shall be just and reasonable and not more than allowed by law
581 or by order of commission and made as authorized by law. Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers or property or in connection therewith or in excess of that allowed by law or by order of commission is prohibited. *Laws 1910, ch. 480, sec. 26.*

All charges made or demanded by any gas or electrical corporation for gas, electricity or any service rendered or to be rendered shall be just and reasonable and not more than al-
582 lowed by law or by order of commission. Every unjust or unreasonable charge made or demanded for gas, electricity or any such service or in connection therewith or in excess of that allowed by law or by order of commission is prohibited. *Same, sec. 65.*

All charges made or demanded by any telegraph or telephone corporation for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more
583 than allowed by law or by order of commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order of commission is prohibited and declared to be unlawful. *Same, sec. 91.*

NORTH CAROLINA If any railroad shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for the transportation of passengers or freight of any description, or for the use and transportation of any railroad car
584 upon the track or any of the branches thereof or upon any railroad which it has the right, license or permission to use, operate or control, it shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than \$500 nor more than \$5,000. *Pell's Revisal 1908, sec. 3768.*

NORTH DAKOTA Provisions for railroads and common carriers
585 substantially identical with pars. 527, 528, 529. *Rev. Codes 1905, secs. 4327, 4368, 4371, 4372.*

Any railroad, railroad corporation or common carrier, which
586 shall violate any of the provisions of this article, as to extortion

or unjust discrimination, shall forfeit for every such offense to the person, company or corporation aggrieved thereby, three times the actual damages sustained or overcharges paid by said party aggrieved, together with the cost of suit and a reasonable attorney's fee to be fixed by the court, and if an appeal be taken from the judgment or any part thereof, it shall be the duty of the appellate court to include in the judgment an additional reasonable attorney's fee for service in the appellate court or courts, or the same may be recovered in a civil action therefor. *Same, sec. 4328.*

Whenever commission has good reason to believe that any railroad, railroad corporation or common carrier has been guilty of extortion or unjust discrimination, and thereby become liable to the penalties prescribed in sections 4371 and 4372, it shall immediately cause suits to be commenced and prosecuted against
587 any such railroad, railroad corporation or common carrier. Such suits and prosecutions may be instituted in any county of the state through or into which the line of the railroad corporation sued for violation of this article may extend. And the court may in its discretion give preference to such suits over all other business except criminal cases. *Same, sec. 4373.*

OHIO A provision identical with par. 546. *Code*
588 *1910, sec. 504.*

589 Also a provision for public utilities identical with par. 553. *Laws 1911, no. 325, sec. 15.*

OREGON Every railroad shall be entitled to collect and receive a just compensation for transportation of persons or prop-
590 erty over its road, or such sum for such transportation as shall be prescribed by the legislative assembly. *Gen. Laws 1862, p. 668, sec. 36.*

Charges made for any service rendered or to be rendered in the transportation of passengers or property or for any service in connection therewith or for the receiving, switching, delivering, storing, elevation and transfer in transit, ven-
591 tilation, refrigeration, or icing or handling of such property or for union depot or terminal facilities shall be reasonable and just and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful. *Gen. Laws 1907, ch. 53, sec. 12.*

592 Also a provision identical with par. 514. *Same, sec. 18.*

Charges made by any public utility for any heat, light,
593 water or power produced, transmitted, delivered or furnished

or for any telegraph or telephone message conveyed or for any transportation of persons or property by street railroad or for any service rendered or to be rendered in connection therewith shall be reasonable and just and every unjust or unreasonable charge for such service is prohibited and declared to be unlawful. *Gen. Laws 1911, ch. 279, sec. 7.*

RHODE ISLAND The rate, toll or charge, or any joint rate, made, exacted, demanded, or collected by any public utility for the conveyance or transportation of any persons or property between points within the state or for any heat, light, water or
564 power produced, transmitted, delivered or furnished or for any telephone or telegraph message conveyed, or for any service rendered or to be rendered in connection therewith shall be reasonable and just and every unjust or unreasonable charge for such service is prohibited and declared unlawful. *Acts 1912, ch. 795, sec. 38.*

SOUTH CAROLINA Identical with par. 522, except that "shall be dealt with as provided by law" reads "shall be fined in a sum
565 not less than \$100 nor more than \$1,000." *Gen. Stats. 1902, sec. 2083.*

SOUTH DAKOTA Charges for storage and handling of grain by
566 warehouses shall in all cases be equal and just. *Rev. Pol. Code 1903, sec. 498.*

Also provisions for railroad and express companies and
567 telephone utilities substantially identical with pars. 527, 528, 529. *Sess. Laws 1911, ch. 207, secs. 6, 25, 29, 30.*

Whenever commission has good reason to believe that any common carrier has been guilty of extortion or unjust discrimination and thereby become liable to the penalties prescribed in sections 29 and 30, it shall immediately cause suits to be commenced and prosecuted against any such common carrier. Such
568 suits and prosecutions may be instituted in any county of the state, through or into which the line or lines of the common carrier sued for violation of this article may extend. No such suits commenced by commission shall be dismissed unless commission shall consent thereto and the court may in its discretion give preference to such suits over all other business. *Same, sec. 31.*

Every unjust and unreasonable charge for the transportation of freight, cars, express and telephone messages over two
569 or more common carriers is prohibited and declared to be

unlawful, and every person or company violating the provisions of this section shall be subject to the penalties prescribed in section 12 of this act. *Same, sec. 41.*

TENNESSEE

If any railroad corporation shall charge, collect or receive more than a just and reasonable rate of toll or compensation for the transportation of passengers or freight or
570 for the use of any railroad car upon its track or upon any track it has control of or the right to use it shall be deemed guilty of extortion which is hereby prohibited and declared unlawful.
Acts 1897, ch. 10, sec. 16.

VERMONT

Charges made by any utility company for
571 any product or service shall be reasonable and without discrimination. *Laws 1908, no. 116, sec. 11.*

WASHINGTON

All charges made by any public warehouseman
572 for the handling or storage of grain and hay shall be just, fair and reasonable. *Laws 1911, ch. 9, sec. 10.*

All charges made for any service rendered or to be rendered in the transportation of persons or property or in connection
573 therewith by any common carrier or by any two or more common carriers shall be just, fair, reasonable and sufficient. *Laws 1911, ch. 117, sec. 9.*

All charges made, demanded or received by any gas, electrical or water company for gas, electricity or water or for any
574 service rendered or to be rendered in connection therewith shall be just, fair, reasonable and sufficient. *Same, sec. 26.*

All rates, tolls, contracts and charges, rules and regulations of telephone and telegraph companies for messages, conversations, services rendered and equipment and facilities supplied
575 whether such message, conversation or service to be performed be over one company or line, or by two or more companies or lines, shall be fair, just, reasonable and sufficient. *Same, sec. 35.*

All charges made for any service rendered or to be rendered in the receipt, storage or handling of property or in connection
576 therewith by any wharfinger or warehouseman shall be just, fair, reasonable and sufficient. *Same, sec. 46.*

WISCONSIN

Provisions identical with pars. 546, 514.
577 *Laws 1905, ch. 362, sec. 1797-3, 1797-5.*

Charges made by any public utility for any heat, light, water or power produced, transmitted, delivered or furnished
578 or for any telephone message conveyed or for any service ren-

dered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. *Laws 1907, ch. 499, sec. 1797m-3.*

B. ELEMENTS TO BE CONSIDERED AS A BASIS FOR REASONABLE RATES

ARKANSAS Commission in fixing or changing rates shall take into consideration the character and nature of the service
570 to be performed, the entire earnings of any railroad or express company, the expenses of operating the same, the income and value thereof. *Kirby's Digest 1904, sec. 6802.*

FLORIDA *See par. 779.*

GEORGIA Commission may vary storage charges according to the value and character of the freight stored, the
580 nature of the place of destination and residence of consignee and such other facts as in its judgment should be considered in fixing the same. *Code 1911, sec. 2649.*

See also par. 786.

IOWA In the making of joint through railway rates and changing, revising or adding to the same, commission shall take into consideration among other things the rates established for shipment within the state for like distances over single
581 lines, the rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. *Code 1897, sec. 2155.*

See also par. 910.

KANSAS . Determination by commission as to what is a
590 reasonable charge shall be according to the classification then existing. *Gen. Stats. 1909, sec. 7196.*

Commission shall ascertain the reasonable value of all property of any common carrier or public utility used or required to be used in its services to the public whenever it deems the ascer-
595 tainment of such value necessary in order to enable commission to fix fair and reasonable rates, joint rates, tolls and charges. *Laws 1911, ch. 238, sec. 28.*

MARYLAND

Commission may in determining the price to
584 be charged for gas or electricity consider all facts which in its
judgment have any bearing upon a proper determination of the
question, although not set forth in the complaint and not within
the allegations. *Laws 1910, ch. 180, sec. 37.*

MASSACHUSETTS

Railroad commission in fixing or changing
rates of carriers shall give due regard among other things to a
585 reasonable return upon the value of the carrier's property. *Acts*
1911, ch. 755, sec. 1.

See also par. 932.

MICHIGAN

In determining the maximum price commis-
sion shall consider and give due weight to all lawful elements
proper to be considered to enable it to determine the just and
reasonable price to be fixed for supplying electricity in such
586 municipality, including cost, reasonable return on actual value
of all property used in the service, depreciation, obsolescence,
risks of business, value of service to the consumer, the connected
load, the hours of the day when used and the quantity used each
month. *Pub. Acts 1909, no. 106, sec. 7.*

MISSISSIPPI

In revising, fixing and regulating charges for
transportation commission shall take into consideration the
character and nature of the service to be rendered and the entire
587 business of the railroad or other common carrier and its earnings
from all kinds of traffic and shall so revise, fix and regulate the
charges as to allow reasonable compensation for the services to
be rendered. *Code 1906, sec. 4842.*

NEBRASKA

If the railway company or common carrier
making complaint or the railway company complained of by the
person or persons named by law operate a line of railroad beyond
the state or has a traffic arrangement with any other railroad
588 company the same shall be taken into consideration in deter-
mining what is a reasonable rate; if it be operating a line of
railroad beyond the state the rate charged or established for
substantially the same or greater service by it in another state
may also be considered. *Cobbey's Annot. Stats. 1909, sec.*
10653(b).

In making and in changing or revising joint rates for rail-
way companies and common carriers commission shall take into
consideration the average rates charged by such companies and
589 carriers for shipments within the state for like distances over

their respective lines and rates charged by such companies or carriers operating such connecting lines for joint interstate shipments for like distances. *Same, sec. 10660.*

See also pars. 974, 1139.

NEVADA

See par. 830.

NEW MEXICO

Commission in fixing rates of telephone and telegraph companies shall give due consideration to the earnings, investment and expenditures as a whole within the state. *Const. art. xi., sec. 7.*

NEW YORK

In determining rates of common carriers, railroad and street railroad corporations, commission shall give due regard among other things to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies. . . . Commission shall give due regard among other things to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies in determining the just and reasonable rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for mileage, excursion, school or family commutation, commutation, half fare or any other form of reduced rate tickets for the transportation of persons or joint interchangeable mileage tickets with special privileges. *Laws 1910, ch. 480, sec. 49(1).*

In determining the price to be charged for gas or electricity commission may consider all facts which in its judgment have any bearing upon a proper determination of the question, although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. *Same, sec. 72.*

Commission shall give due regard among other things to a reasonable average return upon the value of the property actually used in the public service and of the necessity of making reservation out of income for surplus and contingencies in determining the just and reasonable rates, charges and rentals to be observed and in force as the maximum to be charged, demanded, exacted or collected for the performance or rendering of services by telegraph and telephone corporations. *Same, sec. 97(1).*

NORTH CAROLINA In fixing any maximum rate or charge or tariff of rates or charges for any common carrier, person or corporation commission shall take into consideration if proved, or may require proof of, the value of the property of such carrier, person or corporation used for the public, in the consideration
894 of such rate or charge, or the fair value of the service rendered in determining the value of the property so being used for the convenience of the public. It shall furthermore consider the original cost of the construction thereof and the amount expended in permanent improvements thereon and the present compared with the original cost of construction of all its property within the state, the probable earning capacity of such property under the particular rates proposed and the sum required to meet the operating expenses of such carrier, person or corporation, and all other facts that will enable it to determine what are reasonable and just rates, charges and tariffs. *Pell's Revisal 1908, sec. 1104.*

NORTH DAKOTA *See par. 999.*

OHIO Commission shall give due regard among other things to the value of all of the property of the public utility actually used and useful for the convenience of the public, excluding therefrom the value of any franchise or right to own, operate, or enjoy the same in excess of the amount (exclusive of any tax or annual charge) actually paid to any political subdivision of the state or county as the consideration for the grant
898 of such franchise or right, and exclusive of any value added thereto by reason of a monopoly or merger, and to the necessity of making reservation out of the income for surplus, depreciation and contingencies, and all such other matters as may be proper according to the facts in each charge, toll, rental or service to be rendered, charged, demanded, exacted or collected for the performance or rendition of the service. *Laws 1911, no. 325, sec. 25.*

In changing rates of public utilities fixed by ordinance commission shall give due regard to all the elements enumerated in
896 the preceding paragraph (sec. 25). *Same, sec. 48.*

No rate, price, charge, toll or rental determined by commission and substituted for that fixed by ordinance shall become
897 effective or valid until after commission shall have ascertained and determined the valuation upon which such price, charge, toll or rental is based. *Same.*

OREGON

Commission shall provide for depreciation in fixing the rates, tolls and charges of utilities to be paid by the public. *Gen. Laws 1911, ch. 279, sec. 17.*

SOUTH CAROLINA Identical with par. 580. *Gen. Stats. 1902, secs. 1732, 2094.*

SOUTH DAKOTA Upon all hearings commission shall receive whatever evidence, statements or agreements either party may offer or make pertinent to the matter under investigation, and the burden of proof shall be upon the common carrier or carriers affected, but commission shall add to the showing made at such hearing whatever information it may have, or can secure from any source whatsoever, and the person or persons complaining shall be entitled to introduce any published schedule of rates and fares of any common carrier engaged in a similar branch of carriage or evidence of rates and fares actually charged by any common carrier for substantially the same kind of service whether in this state or any other state and the lowest rates and fares published or charged by any railroad company for substantially the same kind of service whether in this state or any other state shall at the instance of the person or persons complaining be accepted as prima facie evidence of a reasonable rate or fare for the service under investigation, and if the common carrier complained of is operating a line of transportation or transmission beyond the state of South Dakota or if it appears that it has traffic arrangements with any such common carrier then commission in determining what is a reasonable rate or fare shall take into consideration the charge made or rate established by such common carrier or the carrier with which it has traffic arrangements for carrying or transmitting freight, passengers, express or messages by telephone from beyond the state to points within the state and from within the state to points beyond the state and if such carrier be operating a line of transportation or transmission beyond the state commission shall take into consideration the rates charged or established for a substantially similar or greater service by such carrier in any other state in which said common carrier operates a line of transportation. *Sess. Laws 1911, ch. 207, sec. 22.*

Also a provision for common carriers identical with par. 589. *Same, sec. 36.*

In establishing, changing or revising joint rates for railway companies commission shall take into consideration the average

of rates charged by such companies operating said connecting lines for joint interstate shipments for like distances. *Same, sec. 39.*

See also pars. 1035, 1166, 1172, 1175.

TENNESSEE

Commission shall take into consideration the character and nature of the service to be performed and the entire business of railroads, together with their earnings from passenger and other traffic and any other facts and circumstances which may affect the question of just and reasonable rates and shall so revise such tariffs as to allow a fair and just compensation, having due regard to the rights and interests of both shipper and carrier and in view of all the circumstances and conditions existing at the time; and commission shall exercise a careful and watchful supervision over every such tariff of charges from time to time as justice to the public and each of said railroads may require and increase or reduce any of said rates as experience and business operations may show to be just. *Acts 1897, ch. 10, sec. 22.*

VERMONT

Commission in determining rates shall investigate local conditions and its final findings and judgment shall take cognizance thereof. *Laws 1908, no. 116, sec. 10.*

See also par. 1039.

WISCONSIN

Commission shall provide for depreciation in fixing the rates, tolls and charges of utilities to be paid by the public. *Laws 1907, ch. 499, sec. 1797m-15.*

C. VALUATION OF THE PROPERTY OF UTILITIES

ARIZONA

Commission shall ascertain the fair value of the property of every public service corporation. *Const. art. xv., sec. 14.*

Every public service corporation shall furnish to commission all evidence in its possession and all assistance in its power requested by commission in aid of the determination of the value of the property of such public service corporation. *Same.*

Commission may ascertain the value of the property of every public service corporation and every fact which in its judgment may or does have any bearing on such value. *Sess. Laws 1912, ch. 90, sec. 47.*

Commission may make revaluations from time to time and
ascertain all new constructions, extensions and additions to the
property of every public service corporation. *Same.*

For the purpose of ascertaining the matters and things
specified in section 47 of this act concerning the value of the
property of public service corporations commission may cause a
hearing or hearings to be held at such time or times and place
or places as commission may designate. *Same, sec. 70.*

Before any hearing is had commission shall give the public
service corporations affected thereby at least 30 days' written no-
tice specifying the time and place of such hearing and such notice
shall be sufficient to authorize commission to inquire into the
matters designated in this section and section 47, but this pro-
vision shall not prevent commission from making any prelimi-
nary examination or investigation into the matters herein
referred to or from inquiring into such matters in any other
investigation or hearing. *Same.*

All public service corporations affected shall be entitled to
be heard and to introduce evidence at such hearing or hearings.
Commission is empowered to resort to any other sources of
information available. The evidence introduced at such hear-
ing shall be reduced to writing and certified under the seal of
commission. *Same.*

Commission shall make and file its findings of fact in writ-
ing upon all matters concerning which evidence shall have been
introduced before it which in its judgment have bearing on the
value of the property of the public service corporation affected.
Same.

The findings of commission so made and filed, when properly
certified under the seal of commission shall be admissible in
evidence in any action, proceeding or hearing before commission
or any court, in which commission, the state or any officer, de-
partment or institution thereof or any county, city and county,
municipality or other body politic and the public service cor-
poration affected may be interested whether arising under the
provisions of law or otherwise and such findings when so intro-
duced shall be conclusive evidence of the facts therein stated as
of the dates therein stated under conditions then existing, and
such facts can only be controverted by showing a subsequent
change in conditions bearing upon the facts therein determined.
Same.

Commission may from time to time cause further hearings
and investigations to be had for the purpose of making revalua-

tions or ascertaining the value of any betterments, improvements, additions or extensions made by any public service corporation subsequent to any prior hearing or investigation, may examine into all matters which may change, modify or affect any finding of fact previously made and may at such time make findings of fact supplementary to those theretofore made. *Same.*

Such hearings shall be had upon the same notice and be conducted in the same manner and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings; provided, that such findings
616 made at such supplementary hearings or investigations shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation. *Same.*

ARKANSAS

Commission shall ascertain as early as practicable the amount of money expended in the construction and equipment per mile of every railroad in the state, the amount of
617 money expended to procure the right of way and the amount of money it would require to reconstruct the roadbed, track, depots and to replace all the physical properties belonging to the railroad. *Kirby's Digest 1904, sec. 6823.*

It shall also ascertain the amounts paid for salaries to the
618 officers of the railroad, the wages paid to employes and the operating expenses of each and every railroad in the state, including repairs and interest indebtedness. *Same.*

When the information is obtained it shall be communicated to the attorney general by report and a duplicate of same filed
619 with the auditor for public use and such information shall be printed from time to time in the annual report of commission. *Same.*

CALIFORNIA

Provisions for public utilities identical with
620 pars. 608, 609, 610, 611. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 47, 70.*

Findings of commission relative to the value of the property
621 of public utilities shall be subject to review by the supreme court in the same manner and within the same time as other orders and decisions of commission. *Same, sec. 70.*

FLORIDA

Commission may employ a competent inspector to inspect the physical condition of the roadbed, rights

of way, tracks, depot, rolling stock and other fixtures and equipment of any railroad or railroads and to investigate and make estimate on cost of reproducing the same. *Laws 1907, ch. 5622, sec. 1.*

Such inspector shall be paid such compensation as commission deems proper out of the funds available for the maintenance of commission, and he shall report in writing the result of his inspection, investigation and estimations to commission, at such times and in such manner as it shall direct. *Same.*

GEORGIA Commission may ascertain the cost of construction and the present value of properties owned by common carriers, railroads, express, street railroad, gas, electric light, power, telephone and telegraph companies, dock or wharfage and terminal or terminal station companies and may employ necessary experts. *Code 1911, sec. 2664.*

KANSAS Commission shall ascertain as early as practicable the amount of money expended in construction and equipment per mile of every railway in the state, the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the roadbed, track, depots and transportation facilities, and to replace all of the physical properties belonging to the railroads. *Gen. Stats. 1909, sec. 7217.*

Commission may employ experts sworn to inspect and assist it when needed. *Same.*

From time to time as the information is obtained, commission shall communicate the same to the attorney for commission and to the attorney general by report and said information shall be printed from time to time in the report of commission. *Same.*

Commission shall ascertain the reasonable value of all property of any common carrier or public utility used or required to be used in its services to the public whenever it deems the ascertainment of such value necessary in order to enable commission to fix fair and reasonable rates, joint rates, tolls and charges. *Laws 1911, ch. 238, sec. 28.*

In making such valuations commission may avail itself of any reports, records or other things available to it in the office of any national, state or municipal officer or board. *Same.*

MARYLAND Commission shall whenever it may deem it desirable to do so investigate and ascertain the fair value of

property of railroads, street railroads and carriers used by them for the convenience of the public. Commission may employ such engineers, experts and other assistants as may be necessary. Such investigations shall be prosecuted with diligence and thoroughness and the results thereof reported to the legislature at each regular session. Such valuation shall show the value of the property of every such corporation as a whole and the value of its property in each of the several counties and municipalities within the state. Every such valuation shall be so made and ascertained by commission that as far as possible it shall not disturb the value of bonds of any of said corporations issued prior to the passage of this act. *Laws 1910, ch. 180, sec. 30.*

Every railroad, street railroad and carrier shall furnish to commission from time to time and as commission may require, maps, profiles, contracts, reports of engineers and other documents, records and papers, or copies of any and all of the same, in aid of investigation to determine the value of the property of such corporation used for the public service and every such corporation is required to co-operate with commission in the work of the valuation of its property in such further particulars and to such extent as commission may reasonably direct. *Same.*

Commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition of the property of the said corporations and ascertain the fair value thereof and from time to time revise and correct its valuation of the property of such corporations. *Same.*

To enable commission to make changes and corrections in its valuation every such corporation is required to report currently to commission and as commission may require all improvements and changes in its property and to file with commission copies of all contracts for such improvements at the time same are executed. *Same.*

Whenever commission shall have completed the valuation of property of any such corporations and before such valuation shall become final commission shall give notice to the company or companies owning or operating such property stating the valuation placed upon the several lines of roads or classes of property of the said company used by it for the convenience of the public and shall allow the company or companies a reasonable time in which to file a protest of same with commission. If no protest is filed within such time such valuation shall become final. If notice of contest is filed by any such corporation commission shall fix a time for hearing of the same and shall proceed

as promptly as may be possible to hear and consider any matter relative and material thereto which may be presented in support of said protest. If after hearing any contest of such valuation commission is of the opinion that the tentative valuation is incorrect it shall make such changes as shall make the same a fair valuation of such property and shall issue an order to make such corrected valuation final. All final valuations by commission shall be prima facie evidence of the value of said property in proceedings had in pursuance of law. *Same.*

Commission shall have full and plenary power to value the
636 plant, property, appurtenances, assets and franchises of gas and electrical corporations. *Same, sec. 31¾.*

Commission shall have plenary power to make all valua-
636 tions of the lines, property, plant, franchises and assets of telegraph and telephone corporations. *Same, sec. 39.*

All provisions in reference to steam railroads, street rail-
roads, gas and electric corporations, common carriers and tele-
phone and telegraph companies with respect to the jurisdiction
637 powers and duties of commission over and in relation to the said corporations and companies and with respect to the valuation of property, plant and franchise are made applicable to water companies, heat or refrigerating corporations and to power companies or corporations. *Same, sec. 42.*

See also par. 2472.

MASSACHUSETTS *See par. 209.*

MICHIGAN If any corporation or association except mu-
nicipal corporations or any lessee or trustee thereof or any person
or persons engaged in the business of transmitting telephone or
telegraph messages or producing or furnishing heat, light, water
or mechanical power directly or indirectly to the public or any
railroad, interurban railroad or other common carrier shall fail,
638 neglect or refuse to furnish any or all of the information required
by commission relative to an investigation as to the issuance of
stocks, bonds, notes or other evidences of indebtedness, or if
commission shall so direct, an appraisal of the property of the
applicant shall be made by a disinterested person or persons ap-
pointed by commission, the entire expense thereof to be borne
by the applicant. *Pub. Acts 1911, no. 177, sec. 1.*

MINNESOTA Commission may at all times keep up the
639 physical valuation of the railroad properties of the state. *Laws
1909, ch. 147, sec. 1.*

640 All railroad companies are required to furnish to commission on July 31st of each year and at such other times as commission may require a detailed statement showing changes in the physical conditions of its properties and the elements of cost entering into such changes for both debits and credits of such property and the distribution of the debits and credits whether charged to operating or capital account. Such statements shall be furnished in the manner and form prescribed by commission. *Same.*

641 Commission may examine all books, contracts, vouchers, receipts and all other papers or documents that it may deem necessary for the purpose of said valuation. *Same, sec. 2.*

NEBRASKA Commission shall ascertain forthwith the
642 physical value of each railroad¹ and public service corporation.²
Acts 1909, ch. 107, sec. 3.

643 The physical value so ascertained shall be the physical value of each of these properties on the first day of July of the year in which such valuation is ascertained. Provided that steam railroads shall first be valued, and thereafter other public service corporations in such order shall be valued as shall be determined by commission. *Same.*

The physical valuation in case of railroads shall include:
(a) The value of all real estate owned and used by the railroad company in the operation of the railroad; (b) the value of all grading required in the building of the railroad; (c) the value of all bridges and viaducts which have been built by or the cost of construction of which have been contributed to by any company, culverts, buildings, water stations and all other structures which are used by the railroad in conducting its business; (d) the value of all track material, track tools, fences, stock pens, cattle guards, grades for highway and farm crossings, track signs and mile posts, and ballast on line, and the value of all interlocking
644 signals and all other signal apparatus installed; (e) the value of all telegraph and telephone lines and apparatus owned and used by the company; (f) the value of all stores and supplies on hand based on the average amount carried by an active working railroad; (g) the value of all rolling stock (in case of interstate

¹ The term railroad shall mean and express all corporations, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court or lawful authority whatsoever) that now or may hereafter own, operate, manage or control any railroad or part of a railroad as a common carrier or cars or other equipment used thereon, or bridges, terminals or side tracks used in connection therewith, whether owned by such railroad or otherwise. *Acts 1909, ch. 107, sec. 1.*

² The term public service corporation shall mean and express every railroad, railway, telegraph, express, telephone, and the railroad transportation property of stockyard companies. *Same, sec. 2.*

roads this shall be the proportion justly chargeable to the part of the road lying within the state); (h) the value of all shops, machinery, tools, side tracks, terminals and spurs; (i) the value of all other articles or things belonging to and necessarily a part of the road; (j) these provisions shall apply to each railroad separately and the finding of commission shall show the total value of each railroad, the number of miles of road and the average value per mile of track. *Same, sec. 4.*

645 The basis to be used in arriving at such value shall be the average market value or cost of labor and material for the year ending July first of the year in which such valuation is made and the values spoken of in provisions (a) to (i) shall be the amount of money found necessary to rebuild the road complete as it now
646 stands the same as if no road existed upon its present site allowing for a reasonable length of time for assembling the material and doing the work necessary for bringing into existence such railroad. The proper reductions shall be made for the wear and shrinkage in value on account of age and wear of the material in the railroad under consideration. *Same.*

646 The physical value of each telegraph, telephone, express, and the railroad transportation property of stockyard companies shall be found by commission. Said value shall be that
647 existing July first of the year in which such valuation is made. *Same, sec. 5.*

To aid in arriving at such value commission shall furnish schedules in blank covering all of the different classes of property to be valued to each of such companies as are enumerated in preceding paragraph and shall require such companies to furnish reports, sworn to by their proper officers, on the schedules furnished by commission of the actual physical valuation of the different classes of property used in conducting their business.
647 If the actual value cannot be given then the estimated value based on the market value of labor and material necessary to duplicate their plant from which they shall deduct the probable shrinkage in value caused by age and use of material as it exists on July first of the year in which such valuation is made. *Same.*

648 Commission may call on any railroad or public service corporation for any information necessary in making a physical valuation of its property. *Same, sec. 6.*

649 It shall be the duty of all railroad and public service companies or corporations to furnish commission with such information sworn to by their proper officers as commission shall require.

The information shall be furnished in the manner and within the time prescribed by commission. *Same.*

Commission may by and with the consent of the governor employ such clerical and expert help as it shall need in ascertaining the physical valuation and in verifying the reports provided for, and all expense incurred shall be audited and paid for out of any money appropriated for the expense of commission. *Same, sec. 7.*

If any railway company or public service corporation shall refuse or fail to make any report or furnish any information sworn to by its proper officers as required and in the time required by commission, it shall for every such failure, violation or refusal forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$10,000. *Same, sec. 8.*

Commission shall include in its annual report made in 1909 a résumé of the plan of procedure adopted by commission and note the progress being made in the work and shall include in its annual report in 1910 a report of all the work together with any recommendation that it may be able to make for the use of the governor or legislature. Said report shall include a statement of the expense incurred in carrying out this work. It shall include also the annual report of the railroad and public service companies made August 1, 1909. *Same, sec. 9.*

Commission when it shall have found the valuation of any property shall notify the company or owners of such property of its finding and shall set a time not less than 30 nor more than 60 days from the date of notice that they may appear and show cause why such valuation as found by commission should be raised or lowered or amended or changed in any particular. Commission may make such amendment or change if it deems the evidence furnished sufficient to warrant it in doing so. *Same, sec. 10.*

Commission shall include in its annual reports from year to year such changes as it shall find necessary in order to keep the true physical value of the different properties as they exist on July 1 of each year, and it may employ such clerical and expert help as shall be necessary in making such annual revisions. *Same, sec. 11.*

NEW JERSEY Commission may from time to time appraise and value the property of any public utility whenever in the judgment of commission it shall be necessary so to do and in making such valuation commission may have access to and use

any books, documents or records in the possession of any department or board of the state or any political subdivision thereof. *Laws 1911, ch. 195, sec. 16(b).*

OHIO

Commission may investigate and determine the value of all the property including the value of its physical property of every public utility actually used and useful for the
656 service and convenience of the public whenever it deems the ascertainment of such value necessary.¹ *Laws 1911, no. 325, sec. 26.*

Before final determination of the value of the property of
657 any public utility commission shall after due notice to such public utility hold a public hearing as to such valuation. *Same, sec. 27.*

658 Commission may at any time upon its own motion make a revaluation of such property. *Same, sec. 28.*

Commission shall keep informed of all new construction, ex-
659 tensions and additions to the property of public utilities. *Same, sec. 35.*

Whoever, being a member of commission, shall wilfully over-
value the property of a public utility for the purpose of enabling
such public utility to exact a higher rate for service than could
660 lawfully be exacted or shall wilfully undervalue such property
for the purpose of preventing such public utility from charging
a lawful rate for such service shall be fined not to exceed \$1,000
or be imprisoned not more than two years or both. *Same, sec. 83.*

See also pars. 3188, 3446.

OKLAHOMA

Commission shall ascertain and enter of record, the same to be a public record, as early as practicable, the amount of money expended in construction and equipment per mile of every railroad and other public service corporation in
661 the state, the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the roadbed, track, depots and transportation facilities, and to replace all the physical properties belonging to the railroad or other public service corporation. *Const., art. ix., sec. 29.*

Commission shall also ascertain the outstanding bonds,
662 debentures and indebtedness, and the amount, respectively,

¹ Such valuation may be made in fixing and determining the just and reasonable rate, fare, charge, toll, rental or service to be thereafter rendered, charged, demanded, exacted or collected by public utilities, in substituting rates of public utilities for those fixed by ordinance and shall be made in the matter of consolidation, purchase, lease or contract by which two or more telephone companies merge or operate their lines or plants jointly or in connection with each other. All valuations so ascertained and demanded shall be open at all times to public inspection. *Laws 1911, no. 325, secs. 25, 48, 64.*

thereof, when issued, and the rate of interest, when due, for what purpose issued, how used, to whom issued, to whom sold, and the price in cash, property or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due, and his address, the credits due on it, the property on hand belonging to the railroad company or other public service corporation, and the judicial or other sales of said road, its property or franchises and the amounts purporting to have been paid, and in what manner paid therefor. *Same.*

Commission shall also ascertain the amounts paid for salaries to the officers of the railroad or other public service corporation, and the wages paid its employees. *Same.*

Commission may employ experts to assist it when needed. *Same.*

From time to time as the information is obtained, commission shall communicate the same to the attorney general by report and file a duplicate thereof with the state examiner and inspector for public use, and said information shall be printed from time to time in the annual report of commission. *Same.*

OREGON

Commission shall ascertain from time to time as nearly as practicable the amount of money expended in the construction and equipment of every railroad, the amount of money expended to procure the right of way, also the amount of money it would require to secure the right of way, reconstruct the roadbed, track, depots and other facilities for transportation, and to replace all the physical properties belonging to the railroad. *Gen. Laws 1907, ch. 53, sec. 46.*

It shall ascertain the outstanding bonds, debentures and indebtedness and the amounts respectively thereof, the date when issued, to whom issued, to whom sold, the price paid in cash, property or labor therefor, what disposition was made of the proceeds, by whom the indebtedness is held, so far as ascertainable, the amount purporting to be due thereon, the floating indebtedness of the railroad, the credits due the railroad, other property on hand belonging to it, the judicial or other sales of said road, its property or franchises, and the amounts purporting to have been paid therefor. *Same.*

Commission shall also ascertain the gross and net income of the railroad from all sources in detail, the amount paid for salaries to the officers of the road, the wages paid to its employees,

and the maximum hours of continuous service required of each class. *Same.*

669 Whenever the information is obtained it shall be printed in the annual report of commission. *Same.*

670 In making such investigation commission may avail itself of any information in possession of any state board or officer. *Same.*

Commission shall value all the property of every public
671 utility actually used and useful for the convenience of the public.
Gen. Laws 1911, ch. 279, sec. 9.

In making such valuation commission may avail itself of
672 any information in possession of the board of state tax commissioners or any other state officer or board. *Same.*

Before final determination of such value commission shall after notice to the public utility hold a public hearing as to such valuation in the manner prescribed for hearing complaints.
673 Commission shall within five days after such valuation is determined serve a statement thereof upon the public utility interested and shall file a like statement with the auditor, recorder or clerk of every municipality in which any part of the plant or equipment of such public utility is located. *Same, sec. 10.*

Commission may at any time on its own initiative make a
674 revaluation of such property and may make a revaluation upon the application of any public utility filed not less than six months after the service of such statement. *Same.*

Commission shall keep itself informed of all new construction, extensions and additions to the property of such public
675 utilities. *Same, sec. 18.*

Whenever required by commission every public utility shall deliver to commission any or all maps, profiles, contracts, reports of engineers and all documents, books, accounts, papers and records or copies of any or all of the same, with a complete inventory of all its property in such form as commission may direct. *Same, sec. 40.*

PENNSYLVANIA Commission may whenever in its opinion the public interests require in connection with any proposed increase in the capital stock, bonds, or other fixed indebtedness of any common carrier employ competent experts to investigate the
677 character, cost and valuation of the property of such common carrier and the necessity for the proposed increase of capital or indebtedness and shall report to the secretary of internal affairs the result of such investigation for his consideration and action.
Laws 1907, no. 250, sec. 17.

SOUTH DAKOTA Commission shall ascertain and determine the true cash value of all the property of every railroad company used in the operation and maintenance of their respective railways; and for the purpose of determining the true cash value of the property of each company commission if deemed necessary may view and inspect the property of such company and shall consider the reports filed in compliance with law as now furnished and the reports and the returns of the company filed in the office of any officer of this state and such other evidence or information as may have been taken or obtained bearing upon the true cash value, of the property of such railroad company in case of railroad companies which own or operate railroads partly within and partly without the state commission shall value only the property within the state. *Sess. Laws 1907, ch. 211, sec. 1.*

In determining such value the value of the entire system, the mileage of the whole system and of the part within the state, together with such information, facts and circumstances as will enable commission to make substantially just and correct determination may be considered. When the true cash value of the property of a railroad company within the state shall have been ascertained and determined the amount thereof shall be entered upon the books of commission kept for that purpose opposite the name of the company and shall be and constitute the true cash value of the entire property of such railroad company within the state. *Same.*

Commission shall commence such valuation on the first day of July 1907 and continue until the same shall have been completed and valuation shall be completed as soon as practicable. *Same, sec. 2.*

See also par. 230.

TEXAS Commission shall ascertain as early as practicable the amount of money expended in construction and equipment per mile of every railway in the state, the amount of money expended to procure the right of way and the amount of money it would require to reconstruct the roadbed, track, depots and transportation, and to replace all the physical properties belonging to the railroad. *Sayles' Civ. Stats. 1897, art. 4570.*

It shall also ascertain the outstanding bonds, debentures and indebtedness and the amount respectively thereof, when issued, and the rate of interest, to whom sold, and the price in cash, property or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount

682 purporting to be due thereon, the floating indebtedness of the
company, to whom due, and his address, the credits due on it,
the property on hand belonging to the railroad company, and
the judicial or other sales of the said road, its property or fran-
chises, and the amount purporting to have been paid, and in
what manner paid therefor. *Same.*

Commission shall also ascertain the amounts paid for sal-
683 aries to the officers of the railroad, and the wages paid its em-
ployes. *Same.*

684 Commission may employ sworn experts to inspect and assist
it when needed. *Same.*

From time to time as the information is obtained com-
mission shall communicate the same to the attorney general by
685 report and file a duplicate thereof with the comptroller for public
use and said information shall be printed from time to time in the
annual report of commission. *Same.*

Commission shall ascertain and in writing report to the
686 secretary of state the value of each railroad in the state includ-
ing all its franchises, appurtenances and property. *Same, art.*
4584c.

After it shall have prepared said report of value commission
shall give the company interested ten days' notice in writing by
registered letter to the president, treasurer or receiver of said
railroad to the effect that said report is ready to be made, and
that if it have any objections thereto it must file them in writing
within 40 days after said service or the same will be so deposited
with the secretary of state as correct. Should the company or
687 its duly authorized representative file with commission any ob-
jections to said report of value commission shall duly investigate
and pass on the same. On investigation if commission con-
clude that its report of value is too low or too high then it shall
make the necessary correction before filing it. Should no ob-
jection be filed within the time permitted or being filed and on
examination found without merit commission shall forthwith
file its said report in the office of the secretary of state where it
shall remain as a public record as a limitation for the issuance of
indebtedness under the limitations prescribed by law. *Same.*

To promote public interests and protect private rights com-
688 mission after due notice under the rule herein prescribed may
correct its report of value of any railroad at any time it may deem
proper. *Same.*

See also par. 3268.

WASHINGTON

Commission shall ascertain as early as practicable the cost of construction and equipment, the amount expended in permanent improvements, and the proportionate amount of such permanent improvements charged in construction and to operating expenses, respectively, the present as compared with the original cost of construction, and the cost of reproducing in its present condition the property of every public service company. *Laws 1911, ch. 117, sec. 92.*

It shall ascertain the amount and present market value of the capital stock and funded indebtedness of every public service company. *Same.*

It shall also ascertain in the case of companies engaged in interstate business the relative value of the use to which such property within the state is actually put in the conduct of interstate business and state business respectively. *Same.*

It shall also ascertain the total market value of the property of each public service company used for the public convenience within the state. *Same.*

It shall also ascertain the time intervening between the expenditure of money in the cost of construction and the time when returns in the shape of dividends were first received by each of these companies. *Same.*

It shall also ascertain the probable earning capacity of each public service company under the rates now charged by such companies and the sum required to meet fixed charges and operating expenses, and in case of a company doing interstate business it shall also ascertain the probable earning capacity of such company upon intrastate business and the sum required to meet fixed charges and operating expenses on intrastate business, and the relative proportion of intrastate and interstate business, the relative proportion of the operating expenses connected therewith, the relative proportion of the revenue which should be derived therefrom. *Same.*

It shall also ascertain the density of traffic and of population tributary to every public service company, and the conditions which tend to show whether such traffic and population is likely to continue, increase or diminish. *Same.*

It shall also ascertain the existence of grades, curvatures and other physical conditions affecting the movement of traffic and business of common carriers. *Same.*

It shall also ascertain whether the expenditures already made by any public service company in procuring its property

were such as were justified by the then existing conditions and such as might reasonably be expected in the immediate future, and whether the money expended by such company has been reasonable for the present needs of the company, and for such needs as may reasonably be expected in the immediate future. *Same.*

685 Commission may cause a hearing or hearings to be held at such time or times and place or places as commission may designate for the purpose of ascertaining the matters and things provided for in these provisions. *Same.*

Commission shall before any hearing is had notify the company concerned of the time and place of such hearing, by giving at least 30 days' written notice thereof, specifying that at the
690 time and place designated a hearing will be held for the purpose of ascertaining the value of such company's property within the state, which shall be a sufficient complaint to authorize commission to inquire into the matters designated in these provisions. *Same.*

All companies affected shall be entitled to be heard and
700 introduce evidence at such hearing. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of commission. *Same.*

Commission shall make and render findings of fact in writing covering all matters in this law mentioned concerning which
701 it is directed to inquire into, and shall make findings upon all matters concerning which evidence may have been introduced before it shall tend to show the value of the property used by such company for the public convenience. *Same.*

Any company affected by the findings or any of them believing such findings or any of them to be contrary to law or the evidence introduced or that such findings are unfair, unwarranted or unjust may institute proceedings in the superior court and have such findings reviewed and their correctness, reasonableness and lawfulness inquired into and determined. Such review shall be heard by the court without the intervention of a jury and shall be heard upon the evidence and exhibits taken before commission and certified to by it; and the court
702 before which such hearing is had, in case it finds any such findings so sought to be reviewed unjust, incorrect, unreasonable, unlawful or not supported by the evidence, shall make new and correct findings to take the place of such as may not be sustained unless such findings are set aside and reversed for error

on the part of commission in rejecting evidence properly proffered, in which case it shall remand said hearing to commission with instructions to receive the evidence so proffered and rejected and make findings of fact on the evidence so proffered and that already received. *Same.*

Said public service company or commission shall have the right to appeal from the decision of the superior court to the supreme court as in civil cases. In case the supreme court finds any findings so sought to be reviewed unjust, incorrect, unlawful or unreasonable or not supported by the evidence it shall either
703 make and render proper findings or remand the case to the superior court with instructions to make proper findings on the evidence already submitted unless the same is reversed for error in rejecting evidence properly proffered, in which case the hearing shall be remanded to commission with instructions to receive the evidence so proffered and make findings on the evidence so proffered and rejected and that already received. *Same.*

The findings of commission so filed or as the same may be corrected by the courts when properly certified under the seal of commission shall be admissible in evidence in any action, proceeding or hearing in which the state or any officer, department
704 or institution thereof, or any county, municipality or other body politic and the public service company affected is interested, whether arising under the provisions of law or otherwise, and such findings when so introduced shall be conclusive evidence of the facts stated in such findings as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. *Same.*

When commission shall have valued the property of any public service company as provided for by law nothing less than
705 the market value so found by commission shall be taken as the true value of the property of such company used for the public convenience for the purpose of assessment and taxation. *Same.*

Commission shall hereafter from time to time cause further hearings to be had for the purpose of ascertaining the betterments, improvements, additions and extensions made by any public service company to its property subsequent to the date of any prior hearing, and shall examine into all traffic movement and every matter and thing that would change, modify or affect any finding of fact previously made and shall at such time make
706 findings of fact supplemental to those theretofore made, showing

the amount expended in betterments, improvements, extensions and additions since such prior findings and the cost of reproducing the same, the value of the property used by such company at the time of such subsequent hearing, the relative value of the use to which such property is put in the performance of intrastate and interstate business respectively, and the value of the property of such company in the state used for the public convenience of intrastate business. *Same.*

Such hearing shall be had upon the same notice, the examination conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings: Provided, That
707 such findings made at such supplemental hearing shall be considered in connection with and as a part of the original findings except in so far as such supplemental findings shall change or modify the findings made at the original hearing. *Same.*

WISCONSIN

A provision identical with par. 666, except that "commission shall ascertain from time to time" reads
708 "commission shall ascertain"; one identical with par. 667, except that "and the amounts purporting to have been paid therefor" reads "and the amounts purporting to have been paid and in what manner paid therefor"; and provisions identical with pars. 668, 669. *Laws 1905, ch. 362, sec. 1797-20.*

In making such investigation for valuation commission may
709 avail itself of any information in possession of the state board of assessment. *Same.*

Commission shall value all the property of every public
710 utility actually used and useful for the convenience of the public. *Laws 1907, ch. 499, sec. 1797m-5.*

In making such valuation commission may avail itself of any
711 information in possession of the state board of assessment. *Same.*

Before final determination of such value commission shall
after notice to public utility hold a public hearing as to such valuation in the manner prescribed for hearing in sections 1797m-45
712 to 1797m-55 inclusive, and the provisions of such sections so far as applicable shall apply to such hearing. *Same, sec. 1797m-6(1).*

Commission shall within five days after such valuation is
determined serve a statement thereof upon the public utility
713 interested and shall file a like statement with the clerk of every municipality in which any part of the plant or equipment of such public utility is located. *Same, sec. 1797m-6(2).*

714 Commission may at any time on its own initiative make a revaluation of such property. *Same, sec. 1797m-7.*

715 Also provisions identical with pars. 675, 676. *Same, secs. 1797m-16, 1797m-42(3).*

Under the stock and bond law of 1911 commission may make a valuation of all the property of a public service corporation if it deem it pertinent to the inquiry or investigation relative to an issuance of stocks, certificates of stock, bonds, notes or other evidence of indebtedness for money only. It shall determine the true valuation in detail of the property, services or other consideration other than money for which it is proposed to issue in whole or in part such stocks, certificates of stock, bonds, notes or other evidences of indebtedness. Reorganized corporations may issue stocks, certificates of stock and bonds for the property of the predecessor corporations in an amount not to exceed the true value of the property as found and determined by commission and stated in the certificate of authority issued to such corporations. In cases of consolidation, the property of another public service corporation or of any person furnishing service to the public purchased directly or indirectly or in any way acquired shall first be valued as provided by law and then only at a sum not to exceed the value found and determined by commission and stated in the certificate of authority issued to such corporation for the issuance of stocks, certificates of stock, bonds, notes or other evidence of indebtedness. *Laws 1911, ch. 593, secs. 1753-9(2), 1753-9(5), 1753-11(1), 1753-11(2).*

716 In determining the value of the property of a public service corporation or of any person furnishing service to the public, for the purposes of the stock and bond law no franchise to be a corporation and no franchise or privilege granted to such corporation by the state or a municipality shall be appraised, fixed, or considered at any greater sum or value than the sum paid therefor into the public treasury of the state or the municipality granting the same. *Same, sec. 1753-15.*

• *See also pars. 3277, 3301, 3302, 3449.*

D. SLIDING SCALE, PROFIT SHARING, AUTOMATIC ADJUSTMENT, MINIMUM CHARGE AND GRADUATED CHARGES

ARIZONA Any public service corporation may itself profit to the extent permitted by commission from any economies, efficiencies or improvements which it may make and may
718 distribute by way of dividends or otherwise dispose of the profits to which it may be so entitled and commission may make or permit such arrangement or arrangements with any public service corporation as it may deem wise for the purpose of encouraging economies, efficiencies or improvements and securing to the public service corporation making the same such portion if any of the profits thereof as commission may determine. *Sess. Laws 1912, ch. 90, sec. 20.*

A corporation or person engaged in the production, generation, transmission or furnishing of heat, cold air, light, water or power, or telegraph or telephone service may establish a sliding
719 scale of charges; provided that a schedule showing such scale of charges shall first have been filed with commission and such schedule and each rate set out therein approved by it. *Same, sec. 21.*

Any such corporation or person may enter into an arrangement for a fixed period for the automatic adjustment of charges

for heat, cold air, light, water or power or telegraph or telephone
720 service, in relation to the dividends to be paid to stockholders of
such corporation, or the profit to be realized by such person;
provided that a schedule showing the scale of charges under such
arrangement shall first have been filed with commission and such
schedules and each rate set out therein approved by it. *Same.*

Commission may revoke its approval at any time and fix
721 other rates and charges for the product or commodity or service.
Same.

CALIFORNIA Provisions for public utilities identical with
722 pars. 718, 719, 720, 721, except that "cold air" is omitted.
Stats. 1911, 1st. ex. sess., ch. 14, secs. 20, 21.

MARYLAND Gas or electrical corporations may establish a
sliding scale for the automatic adjustment of charges for gas,
electricity or any service rendered or to be rendered and the
723 dividends to be paid to stockholders of such gas or electrical cor-
porations, provided that the sliding scale shall have been filed
with the proper commission; but commission may fix proper,
just and reasonable rates and charges to be made for service.
Laws 1910, ch. 180, sec. 31½.

MASSACHUSETTS From and after June 30, 1906, the standard
price to be charged by the Boston Consolidated Gas Company for
gas supplied to its customers shall be 90 cents per 1,000 cubic
feet, which price shall not hereafter be increased except as herein-
724 after provided. From and after the said date the standard rate
of dividends to be paid by said company to its stockholders shall
be seven per cent per annum on the par value of capital stock,
which rate shall not thereafter be increased except as hereinafter
provided. *Acts 1906, ch. 422, sec. 1.*

If during any year ending on June 30 the maximum net
price per 1,000 feet charged by the company has been less than
the standard price the company may during the following year
725 declare and pay dividends exceeding the standard rate in the
ratio of one-fifth of one per cent for every one cent of reduction
of said maximum net price below the standard price. *Same,*
sec. 2.

Said company shall annually publish in the month of Sep-
tember in one or more newspapers published in the city of Bos-
726 ton a report showing for the previous fiscal year among other
things the cost per 1,000 feet to such company of gas in the
holder, itemizing said cost so as to show the cost per 1,000 feet

for gas manufactured, of wages at works and of the main items of materials; also the cost per 1,000 feet of distribution; also the amount per 1,000 feet if any charged as depreciation of ways, works and machinery; also the amount per 1,000 feet if any charged for maintenance repairs; together with such other items of account as may from time to time be prescribed by gas and electric light commission. *Same, sec. 3.*

727 Said commission may upon petition of the mayor or board of aldermen of a city or of the selectmen of a town in which said company is furnishing gas and after hearing the company revise the method of determining the cost of gas supplied by said company and determine finally and conclusively the actual cost of gas furnished and the clear profits made by said company applicable to the payment of dividends for the year ending June 30. Any orders made by commission shall be enforceable as provided by law. *Same, sec. 4.*

728 If the clear profits of the company applicable to the payments of dividends amount in any year to a larger sum than is sufficient to pay the dividends which the company is herein authorized to pay the next succeeding year the excess above the sum necessary for that purpose may from time to time to the extent of one per cent per annum of the par value of the capital of the company be invested in securities in which savings banks incorporated under the laws of the state are authorized by law to invest and the dividends and interest arising from such securities shall also be invested in the same or like securities in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one-twentieth of the par value of the capital stock of the company which sum shall form a reserve fund; provided, that when and so often as the said fund shall by reason of the accumulation of interest or dividends or otherwise exceed one-twentieth of the par value of the capital stock the excess shall be carried to the credits of the clear profits of the company applicable to the payment of dividends. The company may from time to time use said fund or any portion thereof to meet any extraordinary claim, demand, or charge which may at any time arise against or fall upon the company from fire, accident, or other circumstances which due care and management could not have prevented; and whenever in one year the clear profits of the business of the company for the preceding year applicable to the payment of dividends are insufficient to enable it to pay the dividends which the company

is herein authorized to pay it may apply said fund or such portion thereof as may be necessary toward the payment of the dividends which the company is herein authorized to pay for such year. If the reserve fund be reduced at any time it may hereafter again be made up to one-twentieth of the par value of the capital stock of the company and so from time to time as often as such reduction shall happen; provided, that resort may be had to the reserve fund for any of the purposes above mentioned although such fund may not at the time have reached or may have been reduced below the full amount of one-twentieth as aforesaid.

Same, sec. 5.

739 If in any year the amount of the clear profits of the business of the company applicable to the payment of dividends exceeds the amount required to pay the dividends herein authorized to be paid during the next succeeding year and the amounts which herein authorized to be set aside for the reserve fund the excess of such profits shall be paid to the cities and towns in which the company is supplying gas in proportion to the number of miles of mains in each of such cities and towns. *Same, sec. 6.*

At any time after the expiration of ten years from June 30, 1906, gas and electric light commission may upon the petition of the company or upon the petition of the mayor of any city or of the selectmen of any town in which the company is supplying gas to consumers lower or raise the standard price per 1,000
730 cubic feet to such extent as may justly be required by reason of greater or less burdens which may be imposed upon the company, by reason of improved methods in the art of manufacture, by reason of changes in the prices of material and labor or by reason of changes in other conditions affecting the general cost of the manufacture or distribution of gas. *Same, sec. 9.*

NEW YORK Gas or electrical corporations may establish a sliding scale for a fixed period for the automatic adjustment of charges for gas, electricity or any service rendered or to be rendered and the dividends to be paid to stockholders of such gas or
731 electrical corporation; provided, that the sliding scale shall first have been filed with and approved by the proper commission; but commission after the expiration of such fixed period may fix proper, just and reasonable rates and charges to be made for service. *Laws 1910, ch. 480, sec. 65 (4).*

See also par. 1426.

OHIO Any public utility may enter into any reason-
732 able arrangement with its customers, consumers or employees

for the division or distribution of its surplus profits or provide for a sliding scale of charges or provide for a minimum charge for service to be rendered, unless such minimum charge is made or prohibited by the terms of the franchise, grant or ordinance under which such public utility is operated, a classification of service based upon the quantity used, the time when used, the purpose for which used, the duration of use, and any other reasonable consideration or provide any other financial device that may be practicable or advantageous to the parties interested. No such arrangement, sliding scale, minimum charge, classification or device shall be lawful unless the same shall be filed with and approved by commission. Every such public utility is required to conform its schedules of rates, tolls and charges to such arrangement, sliding scale, classification or other device. Every such arrangement, sliding scale, minimum charge, classification or device shall be under the supervision and regulation of commission, and subject to change, alteration or modification by commission. *Laws 1911, no. 325, sec. 19.*

WISCONSIN

Any public utility may enter into any reasonable arrangement with its customers or consumers or with its employes for the division or distribution of its surplus profits or provide for a sliding scale of charges or other financial device
733 that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by commission after investigation to be reasonable and just and not inconsistent with the purposes of the law. Such arrangement shall be under the supervision and regulation of commission. *Laws 1907, ch. 499, sec. 1797m-17.*

Commission shall ascertain, determine and order such rates, charges and regulations as may be necessary to give effect to such arrangement but the right and power to make such other and further changes in rates, charges and regulations as commission
734 may ascertain and determine to be necessary and reasonable and the right to revoke its approval and amend or rescind all orders relative thereto is reserved and vested in commission notwithstanding any such arrangement and mutual agreement. *Same.*

CHAPTER IV

Establishment and Change of Rates

SCOPE NOTE

This chapter includes grants of power authorizing commissions to regulate or prescribe the rates and charges of utilities, and such provisions as indicate the procedure to be followed in the exercise of these powers and the legal effect to be given to the rates and charges so established. Provisions involving the establishment of maximum rates by legislative enactment, even when enforcement is left to commissions, have been excluded. For provisions incidentally involving procedure in rate making, see ch. xiv, on commission procedure and practice. For provisions incidentally involving the enforcement of rates, see ch. xv, on enforcement. For provisions indicating the principles to be observed in determining reasonable rates, see ch. iii, on basis of rate making. For provisions requiring publicity in the establishment and change of rates, see ch. v, on publicity of rates. For provisions regulating rate making in practice, see ch. vi, on discrimination in rates and service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. GENERAL AUTHORITY OF COMMISSION OVER RATES AND CHARGES.

1. Authority of Commission to Approve, Regulate, Supervise or Enforce Rates and Charges.

ALABAMA

Commission shall supervise, regulate and control all transportation companies doing business in the state in
735 all matters relating to the performance of their public duties and for all charges therefor and shall correct abuses therein by such companies. *Code 1907, sec. 5651.*

Commission may regulate railroad freight and passenger tariffs, the locating and building of passenger and freight depots,
736 correct abuses and prevent unjust discrimination and extortion and require reasonable and just rates of freight and passenger tariffs. *Same, sec. 5652.*

See also pars. 241, 1654.

ARIZONA, CALIFORNIA

No public service corporation¹ shall raise any rate, fare, toll, rental or charge or so alter any classification, contract, practice, rule or regulation as to result in an increase in any
737 rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before commission and a finding by commission that such increase is justified. *Ariz.—Sess. Laws 1912, ch. 90, sec. 63(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 63(a).*

See also par. 3162.

FLORIDA

Commission may regulate the charges for storage, wharfage and demurrage under such just and reasonable conditions as it may prescribe and may regulate and direct the
738 use and charges for use of refrigerator cars, refrigerator fruit boxes, icing, etc., in transit, and may direct and control all other matters pertaining to railroad that shall be for the good of the public. *Gen. Stats. 1906, sec. 2893.*

See also pars. 249, 251, 252.

GEORGIA

See pars. 253, 254.

INDIANA

Commission shall supervise all railroad, freight
739 and passenger tariffs, correct abuses, and prevent unjust discrim-

¹ "Public utility," in California.

ination and extortion in the rates of freight and passenger tariffs on the different railroads, and enforce the same by proceedings for the enforcement of penalties provided by law through courts of competent jurisdiction. *Acts 1907, ch. 241, sec. 3.*

Commission shall enforce reasonable and just rates of charges for each railroad company for the use or transportation of loaded or empty cars on its road, and may so enforce for each railroad or
740 for all railroads alike reasonable rates for storing and handling of freight and for use of cars not loaded or unloaded within 48 hours after notice of arrival and placement for service, not to include Sundays or legal holidays. *Same, sec. 3(f).*

Commission shall enforce reasonable rates for the transportation of passengers over each or all of the railroads, which rates
741 shall not exceed the rates fixed by law. Commission may enforce reasonable rates, tolls or charges for all other service performed by any railroad. *Same, 3(g).*

KANSAS

Commission shall supervise all railroad freight and passenger schedules, rates, tariffs and classifications within the state, and all rules and regulations governing car service, the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town, all
742 charges to be made therefor, as well as the rules and regulations adopted by any railroad for the operation of its road in the running of its trains in the state, and immediately to notify the attorney for commission whenever it has knowledge or good reason to believe that any of the laws of the state relating thereto are being violated. *Gen. Stats. 1909, sec. 7170.*

All railroad companies, or other common carriers, entering cities or places as shall be designated by commission as terminal points, are hereby required to publish and put into effect freight
743 and passenger tariff schedules between such stations and all other stations in the state, on such lines of railroad, within three months from the taking effect of this act, which freight and passenger tariff schedules shall first be approved by commission. *Same, sec. 7248.*

MASSACHUSETTS *See pars. 279, 280.*

MICHIGAN *See pars. 282, 2132.*

MINNESOTA *See par. 1664.*

MISSOURI Rates published by warehousemen and elevator men on the first week of January of each year shall not be

increased during the year without the consent of commission, and such published rates, or any published reduction of them, shall
744 apply to all grain received into or handled by such warehouse or elevator from any person or source, and no discrimination shall be made directly or indirectly, for or against any person in any charges made by such warehouseman or elevatorman for the transferring, handling or storing of grain. *Rev. Stats. 1909, sec. 6794.*

NEBRASKA It is unlawful for any railway company or common carrier to change any rate, schedule or classification until application has been made to commission and permission had for
745 that purpose. Any railway company or common carrier violating this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not exceeding \$10,000. *Cobbey's Annot. Stats. 1909, sec. 10663(c).*

See also par. 298.

NEVADA *See par. 2152.*

NEW YORK Subject to the regulation of commission, freight terminal companies may establish classifications of their
746 business and rates for each class thereof as well as for any combination of two or more classes of such service and the further terms and conditions on which such freight terminal services shall be furnished. *Laws 1911, ch. 778, sec. 155.*

OHIO *See par. 2173.*

OKLAHOMA Commission shall supervise, regulate and control all transportation and transmission companies doing business
747 in the state in all matters relating to the performance of their public duties and their charges therefor and correct abuses and prevent unjust discrimination and extortion by such companies. *Const., art. ix., sec. 18.*

See also par. 325.

OREGON Whenever, after hearing and investigation as provided in sections 28, 29 and 30 of Gen. Laws 1907, ch. 53, commission shall find that any charge, regulation or practice
748 affecting the transportation of passengers or property or any service in connection therewith is unjustly discriminatory against any locality, it may regulate same as provided in said sections. *Gen. Laws 1909, ch. 97, sec. 2.*

See also par. 2181.

SOUTH CAROLINA Identical with par. 253. *Gen. Stats. 1902, 749 sec. 2220.*

See also par. 338.

SOUTH DAKOTA The charges for storage and handling of grain by warehousemen shall in all cases be equal and just, and shall
760 be approved by commission before going into effect, and shall not exceed the usual charges heretofore existing. *Rev. Pol. Code 1903, sec. 498.*

No rate or charge for the transmission of any message or for any other service in connection with any telephone line or exchange shall be increased without the written consent of commission entered in the journal of its proceedings; provided, all terminal fees for incoming or outgoing toll messages shall be uniform
761 and the maximum charge on each incoming or outgoing toll message shall not exceed five cents for any message originating or terminating in South Dakota, unless otherwise ordered by commission. *Sess. Laws 1911, ch. 218, sec. 4.*

See also par. 1686.

VIRGINIA For transportation and transmission companies, identical with par. 735. *Const., sec. 156(b).*

See also pars. 353, 1689.

WISCONSIN *See pars. 1694, 2224.*

2. *Authority of Commission to Investigate Rates and Charges.*

MICHIGAN Commission may hear and determine the complaints of any person, firm, association, corporation, body politic or municipal corporation, against the rates and charges or the
762 service rendered or facilities furnished or complaints as to service withheld or refused to be rendered, furnished or performed by persons, firms or corporations operating telephone lines or exchanges or doing a telephone business. *Pub. Acts 1911, no. 138, sec. 8.*

MINNESOTA The attorney general may, whenever in his opinion the public interest requires, make complaint to commission charging that any rate, schedule of rates or the entire schedule of rates, or any classification, rule or regulations of any carrier
764 is unjust, unreasonable or discriminatory. Commission shall investigate such complaint in the manner provided for the investigation of complaints made under the provisions of section 1969 of revised laws of 1905. *Laws 1911, ch. 50, sec. 1.*

MISSOURI

Commission shall see that all schedules of rates prepared and adopted by common carriers are reasonable and just, and it may, upon complaint of any person, or upon its own
755 motion and without complaint, make inquiry from time to time, and determine whether the schedule of rates prepared and adopted by any such common carrier is reasonable and just.
Rev. Stats. 1909, as amended, sec. 3187.

MONTANA

Commission must within 40 days after the filing with commission of a complaint by a shipper, or other person
756 interested, proceed to investigate and determine the justness and reasonableness of any classification, rate, charge, toll, regulation or order made by commission. *Rev. Codes 1907, sec. 4379.*

3. *Authority of Commission to Investigate Rates and Charges and Make Recommendations with Respect Thereto.*

IOWA

Commission shall, upon the application of the mayor and council of any city, or town, or the trustees of any township, make an examination of the rate of passenger fare or freight tariff charged by any railroad company, and of the condition or operation of any railroad, any part of whose location lies within the limits of such city, town or township; and if 25 or more voters in any city, town or township shall by written petition request the mayor and council of such city, or town, or the trustees of such township, to make the said complaint and application, and they refuse, they shall state the reason therefor in writing upon the petition, and return the same to the petitioners, who
757 may thereupon, within ten days from the date of such refusal and return, present the same to commission, who shall, if it thinks the public good demands the examination, proceed to make it in the same manner as if called upon by the mayor and council of any city or town, or the trustees of any township. Before proceeding to make such examination, it shall give to the petitioners and the corporation reasonable notice, in writing, of the time and place of entering upon the same. If upon such an examination, it shall appear to commission that the complaint is well founded, it shall, within ten days, inform the corporation operating such railroad of its finding, and shall report its doings to the governor.
Code 1897, sec. 2117.

MASSACHUSETTS

Upon complaint in writing relative to the service or charges for service in, to or from any city or town in the

state, as rendered or made by any company engaged therein in the transmission of intelligence by electricity signed by the mayor of the city or the selectmen of the town or any 20 customers of the company, commission shall notify the company by leaving at its office or place of business in such city or town, a copy of the complaint and shall thereupon, after notice, give a public hearing to the complainant or complainants and to the company and after
750 the hearing may make such recommendations concerning the reduction, modification or continuation of such charges for service or concerning improvements in the quality of the service or concerning such other matter in the premises as commission shall deem just and proper. Any such recommendations shall be transmitted in writing by commission to the company complained of and the report of the proceedings and of the result thereof shall be included in the annual report of commission, together with a statement of the action, if any, which the company has taken on the recommendation. *Acts 1906, ch. 433, sec. 5.*

If the board is of opinion that repairs are necessary upon any railroad or railway or that an addition to its rolling stock or an addition to or change or relocation of its stations or station houses or waiting rooms or a change in its rates of fares for transporting freight or passengers,¹ or in the mode of operating its railroad or
750 railway and conducting its business is reasonable and expedient, in order to promote the security, convenience and accommodation to the public, it shall in writing inform the corporation or company of the improvements and changes which it recommends should be made. *Acts 1906, ch. 463, pt. i, sec. 9, as amended by Acts 1909, ch. 343.*

Commission upon its own initiative or upon request of any person, after a public hearing and investigation, if it is of the opinion that the change in the rates charged or accommodations furnished by any person, firm, association or corporation doing
750 an express business upon a railroad or railway in the state or in the method in which the business is conducted is reasonable and expedient in order to promote the convenience and accommodation of the public, shall in writing inform such person, firm, association

¹ A railroad corporation may establish for its sole benefit fares, tolls and charges upon all passengers and property conveyed or transported on its railroad, at such rates as may be determined by its directors, and may from time to time by its directors regulate the use of its railroad, but such fares, tolls and charges, and such regulations, shall be subject to revision and alteration by the general court, or by such officers or persons as it may appoint for the purpose, anything in the charter of the railroad corporation to the contrary notwithstanding. *Acts 1906, ch. 463, pt. ii, sec. 181.*

Every street railway company may establish the rates of fares for all passengers and property conveyed or transported in its cars subject however to the limitations named in its charter or hereinafter set forth. *Acts 1906, ch. 463, pt. iii, sec. 90.*

All provisions of law relative to changes and regulations of fares upon railroads shall apply to changes and regulation of fares upon street railways. *Same, sec. 100.*

or corporation of the change which it recommends should be made. *Acts 1908, ch. 599, sec. 4.*

761 Upon complaint in writing relative to the service furnished in any city or town or the charges made by any company engaged in the business of supplying water to any city or town or to the inhabitants thereof, signed by the mayor of the city or the selectmen of the town, or by 50 customers of the company and filed in the office of the state board of health, said board shall notify the company by leaving at its office or place of business in such city or town, a copy of the complaint and may thereupon after notice, give a public hearing to the complainant or complainants and to the company and shall require the company to furnish such information in its possession as may be necessary to determine the matters involved in the complaint, and after the hearing, may make such recommendations concerning the reduction, modification or continuation of such charges for services or concerning improvements in the quality of the service or extensions of the same or concerning other matters in the premises as the board shall deem just and proper. Any such recommendations shall be transmitted in writing by the board to the company complained of, and a report of the proceedings and of the result thereof shall be included in the annual report of the board together with a statement of the action, if any, taken by the company upon the recommendation. *Acts 1909, ch. 319, sec. 1.*

PENNSYLVANIA Commission shall whenever after full hearing upon a complaint it shall be of the opinion that any of the rates or charges whatsoever demanded, charged or collected by any common carrier or carriers are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any provision of law or that any regulation or practice in respect to transportation is unjust, unfair or unreasonable, and in violation of law, decide and recommend what will be the just and reasonable rate or rates, charge or charges to be thereafter observed in such case as the maximum to be charged and what regulation or practice in respect to transportation is just, fair and reasonable to be thereafter followed. *Laws 1907, no. 250, sec. 8.*

762 If, after examination of the same, it shall appear to commission that any of the rates or charges established or demanded by any common carrier are excessive and unreasonable; or that repairs, additions, alterations or changes in or upon any property of a common carrier and used by it as such, are necessary or that

any additional stations are necessary; or additional train-service to any station, or that any addition to the rolling-stock, or any addition to or change of a station or station-houses, are necessary; or that additional terminal facilities should be afforded, or that any change of the rates of fare for transporting freight or passengers, or in the mode of operating the road, or conducting its business, are reasonable and expedient, in order to promote the security, convenience and accommodation of the public, commission shall give notice thereof and information in writing to the common carrier, of the improvement and changes which said commission deem proper, and shall give such common carrier an opportunity for a full hearing in relation thereto; and if the common carrier refuses or neglects to make such repairs, improvements, or changes within a reasonable time after such information and hearing, or fails to satisfy the commission that no action is required to be taken by it, commission shall certify to the secretary of internal affairs and the attorney general the facts relating thereto, for their action according to law, as the public interests may require, and report the same in detail in its next succeeding report to the governor. *Same, sec. 17.*

4. Authority of Commission over Contracts and Agreements as to Rates and Charges.

FLORIDA All contracts and agreements between any and all railroads, railroad companies and common carriers doing business in the state, as to rates of freight and passenger tariffs, use and transportation of cars, shall be submitted to commission for inspection and correction, that it may be ascertained as to whether or not they are reasonable and just, and will insure prompt delivery of freights and passengers to points of destination, or the violation of any section of this act, and commission may revise and correct the same and make such rules and regulations in accordance therewith as it may deem necessary, which said rules and regulations shall be observed and obeyed by said railroads, railroad companies and common carriers as other rules and regulations of this chapter, and any such agreement not approved by commission shall be deemed illegal and void. *Gen. Stats. 1906, sec. 2907.*

GEORGIA All contracts and agreements between railroad companies doing business in the state, as to rates of freight and passenger tariffs, shall be submitted to said commission for in-

766 spection and correction, that it may be seen whether or not they are a violation of law or of the provisions of the constitution; or of this act, or of the rules and regulations of said commission; and all arrangements and agreements whatever as to the division of earnings of any kind by competing railroad companies doing business in this state, shall be submitted to said commission for inspection and approval, in so far as they affect rules and regulations made by said commission to secure to all persons doing business with said companies just and reasonable rates of freight and passenger tariffs; and said commission may make such rules and regulations as to such contracts and agreements as may then be deemed necessary and proper, and any such agreement, not approved by such commission, or by virtue of which rates shall be charged exceeding the rates fixed for freight and passengers, shall be deemed, held and taken to be violations of article 4, section 1, paragraph 4, of the constitution, and shall be illegal and void. *Code 1911, sec. 2638.*

NORTH CAROLINA All contracts and agreements between railroad companies as to rates of freight and passenger tariffs shall be submitted to commission for inspection and correction, that it may be seen whether or not they are a violation of law or of the rules and regulations of said commission, and all arrangements and agreements whatever as to the division of earnings of any kind by competing railroad companies shall be submitted to commission for inspection and approval in so far as they affect the rules and regulations made by commission to secure to all persons doing business with such companies just and reasonable rates of freight and passenger tariffs, and commission may make such rules and regulations as to such contracts and agreements as may then be deemed necessary and proper, and any such agreements not approved by commission, or by virtue of which rates shall be charged exceeding the rates fixed for freight and passengers, shall be deemed, held and taken to be violations of this chapter and shall be illegal and void. *Pell's Revisal 1908, sec. 1108.*

SOUTH CAROLINA All contracts and agreements between railroad companies doing business in the state as to rates of freight and passenger tariffs shall be submitted to commission for inspection and correction, that it may be seen whether or not they are a violation of the law or of the provisions of the constitution or of this chapter, or of the rules and regulations of said commission; and all arrangements and agreements whatever as to the division

of earnings of any kind by competing railroad companies doing business in the state, shall be submitted to commission for inspection and approval, in so far as they affect rules and regulations made by said commission to secure to all persons doing business with said companies just and reasonable rates of freight and passenger tariff, and so far as they are affected by any of the provisions contained in this chapter, for securing to all persons just, equal and reasonable facilities for the transportation of freight and passengers; and commission may make such rules and regulations as to such contracts and agreements as may be then deemed necessary and proper, and any such agreements not approved by commission, or by virtue of which rates shall be charged exceeding the rates fixed for freight and passengers, shall be deemed, held and taken to be violations of this chapter, and shall be illegal and void. *Gen. Stats. 1902, sec. 2076.*

If the said contracts, agreements or arrangements shall, in the opinion of commission, in any way be in violation of any of the provisions of this chapter, commission shall forthwith notify the said railroad companies, in writing, of its objections thereto, specifying such objections; and if the said railroad companies shall fail or neglect, within five days after such notice, to amend and alter such contract, agreement or arrangement, in a manner satisfactory to commission, commission shall thereupon call upon the attorney general to institute and conduct such legal proceedings as may be necessary to enforce the penalties prescribed in this chapter for such violations of its provisions. *Same.*

TEXAS

Any two connecting railroads may enter into a contract whereby any part or all of the passenger, freight or cars, empty or loaded, hauled or transported by one and destined to points on or beyond the line of the other shall be delivered to, received and transported by the other; which contract, however, shall be submitted to commission for examination and approval, and when so approved shall be binding; but if the said contract be not approved by commission the same shall be void; provided, that any connecting line delivering freight to the owner or consignee of such freight may be sued by the owner thereof in the county where the freight is delivered for any damage that may be done to such freight in its transportation. *Sayles' Civ. Stats. 1897, art. 4579 (1).*

VIRGINIA

All contracts and agreements hereafter made and entered into between transportation companies doing busi-

ness in the state, as to rates or freight and passenger tariffs shall be submitted to commission for inspection, that it may be seen whether or not they are in violation of law or of the rules and regulations of commission; and all arrangements and agreements whatever as to the division of earnings of any kind by competing
770 transportation companies doing business in the state shall be submitted to commission for inspection, in so far as they affect the rules and regulations made by commission to secure to all persons doing business with said companies just and reasonable rates of freight and passenger tariff. Any such agreements, disapproved, by virtue of which rates shall be charged exceeding the rates fixed for freight and passengers shall be deemed, held and taken to be violations of the provisions of this chapter and shall be illegal and void. *Pollard's Code 1904, sec. 1294c(16).*

B. AUTHORITY OF COMMISSION TO FIX, ESTABLISH OR PRESCRIBE RATES AND CHARGES.

ALABAMA Commission shall from time to time prescribe and enforce against transportation companies in the manner provided by law such rates, charges, classifications of freight, storage, demurrage and car service charges, rules and regulations and shall
771 require them to establish and maintain all such public service, facilities and conveniences as may be reasonable and just; provided, that where the rates or charges for transportation of any articles or property or the classification of freight have been fixed or prescribed by statute, commission shall not have power to increase such rates or charges. *Code 1907, sec. 5651.*

Commission may change any classification of railroads which has been or may hereafter be established by statute, from time to time as changed conditions may, in its judgment, render it expedient so to do, by taking a railroad from one class and placing it in another, and may assign to any class it may determine proper any new railroad that may hereafter be constructed or operated
772 as a common carrier, in whole or in part, in this state, and said commission may change any classification of articles which has been or may hereafter be established by statute when, in its judgment, it is reasonable and just to do so; but such change shall not increase any rate prescribed or fixed by statute for the transportation of such articles or classes of articles. *Same, sec. 5657.*

773 Nothing in this chapter shall be so construed as to authorize

or empower commission to increase any rate or rates which have been or shall be established by statute for the transportation of freight or passengers, and said commission shall not have power to increase such rate or rates. *Same, sec. 5658.*

ARIZONA Commission shall prescribe just and reasonable classifications to be used and just and reasonable rates and
774 charges to be made and collected by public service corporations for services rendered. *Const., art. xv., sec. 3.*

ARKANSAS Every person or corporation operating any railroad or express business in the state is hereby required to furnish said commission, within 15 days after notice to do so, with the rate sheet and tariff charges for transportation of every kind over such railroad. Commission shall examine and revise said rate sheet and tariff charges for freight or express matter for each railroad in the state, and determine whether or not and in what manner, if any, such charges and rates are more than just and reasonable compensation for the services rendered, and whether or not and in what manner, if any, said charges and rates are in violation of any of the provisions of this act, and said commission will make reasonable and just rates of freight, express and passenger tariffs to be observed by all persons and corporations operating any railroad or engaged in transporting persons or property as express or freight in this state; shall make rules and regulations as to charges at any and all points for the necessary hauling and
775 delivering of express and freight; regulate rates and charges for such service on all railroads as, in its judgment, justice to the public and said person or corporation may require; and so make the same conform to the requirements of this act. And said commission in making such rules and regulations, shall first give the person or corporation to be affected thereby notice to appear and show cause, if any it can, why no change should be made in the rates then in force. And when any tariff of charges is corrected and approved, said commission shall append a certificate of its approval to said tariff of charges and give notice thereof to any officer or agent of the railroad or express company to be affected thereby, and said tariff and charges shall be kept posted up for at least five days before the same shall go into effect. And said commission shall accordingly fix rates and tariffs of charges for those express companies and railroads the officers of which fail to furnish rate sheets or tariffs of charges as above required. *Kirby's Digest 1904, sec. 6802.*

Commission shall hear all complaints made by any person, firm or corporation against any such tariff of charges so approved; hear the parties to the controversy in person or by attorney, or both, and may take testimony, orally or in writing, and regulate argument thereon, and conduct the investigation of such complaints in such manner as to commission may seem best adapted to arrive at the truth, and when any changes are made in any
776 tariff of charges, notice thereof shall be given to the person or corporation to be affected thereby; provided, in no instance shall any person or corporation operating a railroad or express company, the schedule of charges of which have been submitted to, revised and approved by commission, be civilly or criminally liable for the making of any charge which has been authorized by the tariff of charges so approved, or the rules and regulations prescribed by commission. *Same, sec. 6810.*

Commission shall adopt, change or make reasonable and just rates, charges and regulations to govern and regulate sleeping
777 car tariffs and services, correct abuses, and prevent unjust discrimination and extortion in the rates for the same. *Acts 1907, no. 422, sec. 4.*

FLORIDA Commission shall make reasonable and just rates of freight and passenger tariffs to be observed by all railroads, railroad companies and common carriers over their respective lines or connecting lines, shall make reasonable and just regulations for the observance of the same as to charges at any and all points for the necessary handling and delivery of all kinds
778 of freight and transportation of passengers and for the prevention of any unjust discrimination in connection therewith, and shall make reasonable and just rates of charges for the use and transportation of all kinds of railroad cars, conveying all kinds of freight to and from any and all points in the state. *Gen. Stats. 1906, sec. 2893.*

Commission may create rating or basing points at places where competing lines of railroads meet, or where water or other competition exists, and may break the continuity of rates to and
779 from such points, so as to maintain competition between rival lines and points, and may, in fixing the rate upon any commodity, take into consideration the competition between different localities or shipping points producing or shipping such commodity. *Same, sec. 2895.*

Commission shall make and furnish to each railroad corporation as soon as practicable a printed or written schedule of just

780 and reasonable rates and charges for transportation of freights' passengers and cars on its railroad or railroads under its control or management. *Same, secs. 2899.*

Commission, before changing, revising, fixing, adopting or allowing any such schedule, or prescribing any such rules and regulations, shall give public notice of its intended action in such newspaper and for such time as shall be deemed fair and reasonable by commission to all railroad corporations to be affected and
781 to the public generally, of the times and places of its meetings, and all railroad corporations and persons interested shall be entitled to a just and fair hearing before commission, and whenever any full schedule shall have been made, changed or revised, adopted or allowed, or any rule or regulation prescribed as aforesaid, commission shall in every instance give the date on which the same shall go into effect. *Same, sec. 2900.*

Commission in changing, revising, fixing, allowing or adopt-
782 ing any schedule of rates for freights or cars shall not discriminate unreasonably or unjustly in favor of any one class of freight to the detriment of other classes of freight. *Same, sec. 2902.*

GEORGIA

Commission may determine what are just and reasonable rates and charges and it shall make reasonable and just rates of freight and passenger tariffs to be observed by all railroad companies, shall make reasonable and just rules and regulations to be observed by all railroad companies as to charges at any and all points for the necessary handling and delivering of freights, shall make such just and reasonable rules and regulations as may be necessary for preventing unjust discriminations in the transportations of freight and passengers, shall make reasonable and just rates of charges for use of railroad cars carrying all and any kinds of freight and passengers no matter by whom owned or carried, shall make just and reasonable rules and regulations to be observed by railroad companies to prevent the giving or paying of any rebate or bonus, directly or indirectly, and from mislead-
783 ing or deceiving the public in any manner as to the real rates charged for freight and passengers; provided, that nothing in this act contained shall be taken as in any manner abridging or controlling the rates for freight charges by any railroad company for carrying freight which comes from or goes beyond the boundaries of the state and on which freight less than local rates on any railroad carrying the same are charged by such railroad, but said railroad companies shall possess the same power and right to charge such rates for carrying such freights as they possessed

before the passage of this act, and commission shall have full power by rules and regulations to designate and fix the difference in rates of freight and passenger transportation to be allowed for longer and shorter distances on the same or different railroads and to ascertain what shall be the limits of longer and shorter distances. *Code 1911, sec. 2630.*

784 Commission shall make for each of the railroad corporations, as soon as practicable, a schedule of just and reasonable rates of charges for transportation of passengers and freights and cars on each of said railroads. *Same, sec. 2631.*

785 When the schedule shall have been made or revised commission shall cause publication thereof to be made for four consecutive weeks in some public newspaper published in the cities of Atlanta, Augusta, Albany, Savannah, Macon, Rome and Columbus; and after the same shall be so published it shall be the duty of all such railroad companies to post at all their respective stations in a conspicuous place a copy of said schedule for the protection of the public. *Same, sec. 2632.*

786 Commission shall fix and prescribe a schedule of maximum rates and charges for storage of freight made and charged by railroad companies and fix at what time after the reception of freight at the place of destination such charges for storage shall begin, with power to vary the same according to the value and character of the freight stored, the nature of the place of destination and residence of consignee and such other facts as in its judgment should be considered in fixing the same. *Same, sec. 2649.*

787 All the provisions, prescribing the procedure of commission in fixing freight and passenger tariffs, and hearing complaints of carriers and shippers, and of altering and amending said tariffs, shall apply to the subject of fixing and amending rates and charges for storage, as aforesaid. *Same, sec. 2650.*

ILLINOIS

788 Commission shall make for each of the railroad corporations, as soon as practicable, a schedule of reasonable maximum rates of charge for the transportation of passengers and freights and cars of each of said railroads. *Revisal 1909, ch. 114, sec. 131.*

789 When any schedule shall have been made or revised, commission shall have the same printed by the state printer under the contract governing the state printing and commission shall furnish two copies of such printed schedule to the president, general superintendent or receiver of each railroad company or corporation. *Same.*

Commission may fix and establish rates, rules and regulations
790 regarding demurrage, storage and all other charges incident to the
transportation of property between points wholly within the
state. *Same, sec. 194.*

Commission shall make for each of the common carriers
doing business in the state, as soon as practicable, upon giving due
notice to all parties interested therein, and after a hearing in rela-
791 tion thereto, a schedule of reasonable maximum rates or charges,
classification, rules and regulations for the transportation of per-
sons or property on or by each of said common carriers between
points wholly within the state. *Same, sec. 198.*

When any schedule shall have been made or revised, com-
mission shall have the same printed by the state printer under the
792 contract governing state printing and commission shall furnish
two copies of said printed schedule to the president, general man-
ager, general superintendent or receiver of each common carrier.
Same.

Commission may prescribe, promulgate and establish rea-
sonable and just rates or schedules of maximum charges for each
kind of property, money, parcel, merchandise, packages and other
commodities and things to be charged for and received by express
companies or carriers by express or either of them, either sepa-
793 rately or conjointly, connected with the receiving, handling, trans-
porting, storing and delivery of all such property, money, parcels,
merchandise, packages and other commodities and things which by
the contract of carriage are to be transported separately or con-
jointly by such express companies or carriers by express between
points within the state, and may also prescribe a form of receipt
for each shipment, also a form of receipt for moneys paid for
charges for the transportation of any article or thing, to be given
upon receipt or upon the payment of such charges. *Same, sec. 369.*

Commission may make and prescribe maximum rates and
794 charges, classifications, rules and regulations for the government
and control of express companies or carriers by express. *Same.*

IOWA

Nothing in this section shall be construed as
to prevent railroad companies or commission from establishing
schedules of reasonable charges applicable to switching services
795 only, and which shall be independent of any schedule of charges
which may be provided for the regular line haul freight service of
common carriers. *Code 1897, sec. 2145.*

Commission shall fix and establish reasonable, fair and just
rates of charges including a schedule of maximum joint rates for

each kind or class or property, money, parcels, merchandise, packages and other things to be charged for and received by each express company or carriers by express, separately or conjointly, 796 on all such property, money, parcels, merchandise, packages and other things which by the contract of carriage are to be transported separately or conjointly by such express companies or carriers by express doing business over the line of any railroad or other carrier between points wholly within the state, which rates or charges shall be made to apply to all such express companies or express carriers. *Same, sec. 2165(b).*

Within six months from the taking effect of this act, commission shall prepare and make for each express company doing business in this state a schedule of reasonable maximum charges 797 of rates for transporting property, money, parcels, merchandise, packages and other things carried by such express company or companies between points wholly within the state. *Same, sec. 2165(c).*

KANSAS

Commission may prescribe reasonable maximum rates, not exceeding the rates set forth in section three hereof,¹ which shall be charged for the transportation of oil,² which rate shall be binding on every such person, firm, association or corporation after its publication in the official state paper; provided, the reasonableness of such rates may be tested by proceedings therefor in any court of competent jurisdiction in the state, and such court shall upon hearing the same, make such order as shall be proper, and such order may be reviewed by the supreme court as other civil proceedings regardless of sum or value involved; provided, before beginning such proceedings in court to test such matters, such person, firm, association or corporation shall execute a bond to the state of Kansas, in such reasonable sum as the judge of the court in which such matter is brought shall order, conditioned that the person, firm, association or corporation making such application will promptly pay to any shipper the difference between the rate received for transporting oil and the rate finally ordered by such court. When such maximum rates shall be fixed by commission, the rates prescribed in section three of this act shall cease to be in force, and the rates so fixed by commission shall govern, as in this section provided. *Gen. Stats. 1909, sec. 3964.*

¹ Laws 1905, ch. 315, sec. 3 (Gen. Stats. 1909, sec. 3963), establishing maximum rates to be charged for the transportation of oil.

² All pipe lines laid, built or maintained for the conveyance of crude oil within the state are declared to be common carriers, and said conveyance of said oil shall be in the manner and under the restrictions in this act provided. *Gen. Stats. 1909, sec. 3961.*

LOUISIANA

Commission shall adopt, change or make reasonable and just rates, charges and regulations to govern and regulate railroad, steamboat and other water craft, and sleeping car, freight and passenger tariffs and service, express rates and telephone and telegraph charges, correct abuses and prevent unjust discrimination and extortion in the rates for the same, on the different railroads, steamboat and other water craft, sleeping car,
799 express, telephone and telegraph lines of the state and prevent such companies from charging any greater compensation in the aggregate for the like kind of property or passengers or messages for a shorter than a longer distance over the same line unless authorized by commission to do so in special cases, and fix and adjust rates between branch or short lines and the great trunk lines with which they connect, and enforce the same by having the penalties prescribed, inflicted through the proper courts having jurisdiction. *Const., art. 284.*

Whenever any rate, charge, rule, regulation, order or decision, of commission, is contested in court, as provided by this constitution, or by any amendment thereto, and the same is maintained on final trial, by a court of competent jurisdiction, the railroad, express, telephone, telegraph, steamboat or other water craft or sleeping car company or corporation, contesting the same, shall forfeit and pay to the state, the sum of not less than \$10 nor more than \$50 per day for each day that the putting into effect and operation of the rate, order, charge, rule, regulation or decision of commission which may have been suspended by such suit,
800 to be found and adjudged by the court in which such suit may be brought and, in all cases, the said court shall, in its judgment, maintaining the said rate, charge, rule, regulation, order or decision, enter up a decree and judgment against the plaintiff therein, condemning such plaintiff to pay to the state the amount of the said penalty or forfeiture so found and adjudged by it, which amount, after deducting therefrom, the attorney's fees provided by article 288 of this constitution, shall, when collected, be paid into the state treasury, for account of the general school fund of the state. *Same, art. 286.*

Commission shall adopt, change or make reasonable and just charges or regulations to govern and regulate all pipe lines¹ in the
801 state through which gases or other liquids are conveyed from one

¹ All pipe lines, through which gases, oil, or other liquids are conveyed from one point in the state to another point in the state, for a consideration, are hereby declared to be common carriers, and are placed under the control of and subject to regulation by commission. *Stats. 1906, no. 36, sec. 1.*

point in the state to another for a consideration. *Stats. 1906, no 36, sec. 2.*

MICHIGAN

Commission may make, alter, amend or abolish any rate or charge for telephone service, and may regulate by
802 rules or orders any service or facilities. *Pub. Acts 1911, no. 138, sec. 3.*

Before any rate shall be fixed or established by commission, it shall give the telephone company to be affected thereby at least 30 days' notice of the time and place when and where a hearing
803 will be given said telephone company concerning the fixing or establishing of said rate, and commission may compel the attendance of witnesses as in cases arising under act number 300 of the public acts of 1909. *Same, sec. 9.*

Commission shall furnish all telephone companies within
804 the state a copy of all rates, charges or tolls fixed or established by commission. *Same, sec. 20.*

If any telephone company within the state shall violate any of the provisions of the act, or shall, 30 days after the establishing or fixing thereof, have failed, neglected or refused to observe any rate, charge, toll or order fixed or established by commission, unless the enforcement of same shall have been enjoined by a court of competent jurisdiction or shall do or commit any other
805 thing or act in this act declared to be unlawful, or shall omit to do or perform any act or thing, the omission to do which is in this act declared to be unlawful, such telephone company shall forfeit and pay to the state for the first offense not less than \$50 nor more than \$1,000 and for each subsequent offense shall pay not less than \$100 nor more than \$2,000. Any penalty herein provided for shall be collected under the direction of the attorney general in an action of assumpsit. *Same, sec. 21.*

MISSISSIPPI

Railroads must be given ten days' notice of the time and place at which any revision of its tariff of charges, or
806 complaint concerning the same, will be considered. *Code 1906, sec. 4833.*

Every railroad or other common carrier shall furnish to commission its tariff of charges for transporting passengers and freight from point to point within and from points without to points within and from points within to points without the state and including all joint tariffs with connecting lines; and commission shall revise such of said tariffs as are not subject to the exclusive regulation of congress, and determine whether or not, and in what

particular, any of the charges are more than reasonable compensation for the services to be rendered and whether or not discrimination be made improperly against any person, corporation or locality; and it shall require the proper corrections to be made; and
807 when the tariffs have been corrected commission shall append to each its certificate of approval; and commission shall fix and regulate tariffs of charges for all railroads or other common carriers which fail to furnish their tariffs as required. It shall exercise a watchful and careful supervision over the tariffs of charges of every railroad and other common carrier, and shall revise the same from time to time as justice to the public and the railroad and other common carriers may require; and shall increase or reduce any of the rates as experience and business operations show to be just. Commission shall regulate and fix the rates to be charged on short hauls in excess of what may be charged on long hauls; and it shall determine in all cases whether the circumstances and conditions be or be not substantially similar. *Same, sec. 4842.*

Commission may fix the charges of and shall supervise and regulate all persons, natural or artificial, who may own or operate express, telegraph, telephone and sleeping car companies, car service associations or other associations governing or controlling cars or rolling stock of railroads in the state in the same manner as railroads; and it is the duty of each person, natural or artificial, owning or operating such express, telegraph, telephone and sleeping car company to have and maintain fixed rates for doing business
808 which shall without discrimination between persons, corporations or localities be applicable under similar circumstances to all persons alike, to submit their tariff of charges of such companies to commission for approval, and to comply with the orders and regulations of commission made in supervising their companies in like manner and under like penalties against their companies, their officers and employes as is provided in the case of railroads; and the persons, whether natural or artificial, owning or operating such companies shall be liable civilly and criminally for extortion in the same manner as railroads. *Same, sec. 4843.*

MISSOURI

If any common carrier shall neglect or refuse for a period of 30 days to file or publish its schedule of rates, fares and charges, as provided for in sections 3179 to 3207, inclusive, commission shall make out and print a schedule or schedules of reasonable rates for such common carrier, and deliver copy or copies of the same to such common carrier. Such delivery shall be by messenger, by registered letter or by any sheriff in the state.

It shall be the duty of every sheriff to serve and deliver the same whenever directed thereto by an order of commission, and shall return the same in like manner and with like effect to commission as in case of summons in civil suits. Such common carriers for whom such schedules shall be made by commission shall keep the
800 same posted in their depots and stations, as required in said sections for schedules made out by them in compliance with law; and the provisions of said sections concerning the schedules required to be made by commission and the changing thereof, shall apply to the schedules made by commission as provided in this section. The costs of preparing, printing and delivering said schedules shall be paid by such common carrier, and shall be specified in an order of commission entered of record, and a copy of said order, certified by the secretary of commission shall in any suit be prima facie evidence of the amount which ought to be paid, and may be recovered in an action in the name of the state, at the relation of commission, before any court or justice of the peace in the state having jurisdiction of the amount thereof. *Rev. Stats. 1909, sec. 3189.*

Commission shall fix, maintain and establish just and reasonable freight rates on all classes of freight from, to and between all points and stations upon and along all lines of railroad in the
810 state; and it shall fix, maintain and establish just and reasonable reconsigning charges, switching rates and all other rates or charges which may be added to the total charges for the transportation of any freight within the state. *Same, sec. 3251.*

Commission may examine all officers, agents and employees of said railroad companies, and all other persons, under oath or otherwise, procure the necessary information to make just and reasonable freight rates or charges, and ascertain if the freight
811 rates so fixed by commission are being observed or violated. Commission may administer oaths, issue subpoenas for persons and papers, examine witnesses and enforce the same in like manner as the circuit courts of the state. And in the issuance and enforcement of the papers and processes above, the jurisdiction shall be co-extensive with the state. *Same, sec. 3252.*

Commission may classify all articles of freight transported on any railroads or parts of railroads owned, leased or occupied in the state except the articles in special classes D, E, G, and H,
812 placing said articles in either of the general classes provided for, or in any of said special classes, except D, E, G and H; and it may reduce said rates on any of said railroads or parts of railroads,

either in general or special classes, whenever in its judgment it can be equitably done. *Same, sec. 3258.*

813 Also a provision identical with par. 796. *Same, sec. 3288.*

The railroad and warehouse commission, or any other public service commission, if any, which may be hereafter established in its place by law may prescribe and fix maximum rates of fare for 814 passenger travel within the state over the railroads therein. The rates so prescribed and fixed shall not exceed the maximum for such rates which is now or may hereafter be established by any law of the state. *Laws 1911, S. B. 283, sec. 1.*

Commission shall fix and regulate the rate of freight to be charged and classify the same, and may enforce the same as is 815 now provided by law for common carriers and with like penalties for violation of any of said rates when fixed by commission. *Same, sec. 2.*

The board of railroad and warehouse commissioners, or any other public service commission, if any, which may be hereafter established in its place by law, may from time to time as changing 816 facts and conditions may warrant ascertain and determine anew the class in which any railroad of the state may belong in accordance with the classification under the provisions of section 2 of this act and establish new maximum rates for each class. *Same, sec. 3.*

MONTANA

Commission shall adopt as soon as practicable all necessary rates, charges and regulation to govern and regulate freight and passenger tariffs, correct abuses, and prevent unjust 817 discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in the state and make the same effective by enforcing the penalties prescribed by law. *Rev. Codes 1907, sec. 4375.*

Commission shall fairly and justly classify and subdivide all freight and merchandise of whatsoever character that may be 818 transported over the railroads of the state into such general and special classes or subdivisions as may be deemed necessary or expedient. *Same.*

Commission may fix different rates for different railroads and for different lines under the same management or for different 819 parts of the same lines, if found necessary to do justice, and may make rates for express companies different from the rates fixed for railroads. *Same.*

The rates, tolls or charges on any property which shall for 820 any reason remain unclassified by commission shall not in any

event exceed the highest rates fixed for any classification by commission. *Same.*

821 Commission shall make and establish reasonable rates for the transportation of passengers over each and all of the railroads and shall prescribe rates, tolls and charges for all other services performed by any railroad. *Same, sec. 4379.*

822 When any schedule shall have been made or revised commission shall cause notice thereof to be published for two successive weeks in some newspaper published in the city of Helena (which notice shall state the date of taking effect of said schedule, and said schedule shall take effect at the time so stated in such notice), and a printed notice of such schedule shall be conspicuously posted by such common carrier in each freight office, and passenger depot upon its lines; provided, that before finally fixing and deciding what the original rates and classifications shall be, commission shall publish ten days' notice in two daily papers, one of which is published in the city of Helena, setting forth in such notice that at a certain time and place it will proceed to fix and determine such maximum rates and classifications; and it shall at such time and place, and as soon as practicable, afford to any person, firm, corporation or common carrier who may desire it, an opportunity to make an explanation or showing or to furnish information to commission on the subject of determining and fixing such maximum rates and classifications. All classifications and rates fixed and established by commission shall become effective 20 days after the railroad affected thereby shall have received certified copies thereof from commission. *Same.*

NEBRASKA

823 Commission shall make all necessary classifications and fix all necessary rates, charges and regulations to govern and regulate the freight and passenger tariffs of railway companies and common carriers, shall correct abuses and prevent unjust discriminations, extortions and overcharges in rates of freight and passenger tariffs on the different railroads in the state, and shall enforce the same by having the penalties inflicted as provided by law through proper courts having jurisdiction. *Cobbey's Annot. Stats. 1909, sec. 10650(d).*

824 Commission shall fairly and justly classify and subdivide all freight and property of whatsoever character and description that may be transported over the railways of the state into such general and special classes as may be found necessary and expedient and fix to each class and subdivision of freight a reasonable rate for each railway company or common carrier for the

transportation of each of said classes and subdivisions; the classifications herein provided for shall apply to and be the same for all railway companies or common carriers. *Same, sec. 10650(e).*

825 Also a provision identical with par. 819. *Same, sec. 10650(f).*

Commission shall make and establish reasonable rates of charges for each railway or common carrier for the use or transportation of loaded or empty cars on its road; and may establish
826 for each railroad or for all railroads alike reasonable rates for the storing and handling of freight and for the use of cars not unloaded after 48 hours' notice to the consignee, not to include Sundays and legal holidays. *Same, sec. 10650(h).*

Until commission shall make the classifications and schedules of rates as provided for by law and afterwards, if it deems advisable, it may make partial or special classifications for all or
827 any of the railroads and fix the rates to be charged by the roads therefor; and such classifications and rates shall be put into effect in the manner provided for general classifications and schedules of rates. *Same, sec. 10653.*

Commission shall fix, as soon as practicable, a schedule of classification of rates and charges, except joint rates elsewhere provided for, for the transportation of freights, passengers and cars over the various lines of railroad in the state, and to that end commission shall give the railroad company or common carrier to be affected thereby ten days' notice of the time and place when and where the rates will be fixed and any such railroad com-
828 pany or common carriers shall be entitled to be heard at such time and place to the end that justice may be done; and shall have process to enforce the attendance of witnesses, to be served as in civil cases. Said schedule of rates and charges so fixed and prescribed shall go into effect not less than 30 days nor more than 60 days, within the discretion of commission, after the same have been completed and copies thereof mailed to the railway companies and common carriers affected thereby. *Same.*

NEVADA

Commission may prescribe just and reasonable railroad classifications of freight; and may fix just and reasonable charges for the transportation of all intrastate freight and intra-
829 state passengers, for sleeping car accommodations, for goods, merchandise and all matter of every kind carried by express companies within the state, for the transmission of messages by telegraph companies and for the use of telephone lines within the

state. *Stats. 1907, ch. 44, sec. 7, as amended by Stats. 1909, ch. 121, sec. 3.*

Commission may prescribe classifications of the service of
all public utilities, and in such classifications may take into
account the quantity used, the time when used, and any other
reasonable consideration. *Stats. 1911, ch. 162, sec. 13.*

NEW MEXICO Commission shall fix, determine, supervise,
regulate and control all charges and rates of railway, express,
telegraph, telephone, sleeping car and other transportation and
transmission companies and common carriers within the state.
Const., art. xi., sec. 7.

Commission shall determine no question nor issue any
order in relation to the matters specified in the preceding section,
until after a public hearing held upon ten days' notice to the
parties concerned, except in case of default after such notice.
Same, sec. 8.

NEW YORK Commission may establish such rules and regulations
to carry into effect the provisions of this subdivision as it
may deem necessary, and may modify or amend such rules or
regulations from time to time. *Laws 1910, ch. 480, sec. 66(12).*

NORTH CAROLINA Commission shall make reasonable and just
rules as to charges by any company or corporation engaged in the
carriage of freight or express for the necessary handling and
delivery of the same at all stations. *Pell's Revisal 1908, sec. 1094(2).*

Commission shall make just and reasonable rates of charges
for the transmission and delivery of messages by any telegraph
company and shall make just and reasonable rates of charges for
the rental of telephones and furnishing of telephonic communication
by any telephone company or corporation. *Same, sec. 1096.*

Commission shall make reasonable and just rates (1) of
freight, passenger and express tariffs for railroads, street railways,
steamboats, canal and express companies or corporations and all
other transportation companies or corporations engaged in the
carriage of freight, express or passengers; (2) for the through
transportation of freight, express or passengers; (3) of charges for
the transportation of packages by any express company or corporation;
(4) of charges for the use of railroad cars carrying
freight or passengers; (5) rules and regulations as to contracts

entered into by any railroad company or corporation to carry over its line or any part thereof a car or cars of any other company or corporation; (6) rules and regulations as to contracts entered into by any railroad rates on grain, or lumber to be dressed and shipped over the line of the railroad company on which such freight originated; (7) conjointly with such railroad companies, shall have authority to make special rates for the purpose of developing all manufacturing, mining, milling and internal improvements in the state. *Same, sec. 1099.*

Nothing in this chapter shall prohibit railroad or steamboat companies from making special passenger rates with excursion
837 or other parties, also rates on such freights as are necessary for the comfort of such parties, subject to the approval of commission. *Same.*

NORTH DAKOTA Commission may prescribe just and reasonable classifications of freight and fix and prescribe just and reasonable schedules of charges for the transportation of intrastate freight and intrastate passengers, for sleeping car accommodations, for
838 goods and all matter of every kind carried by express companies within the state, for the transmission of messages by telegraph and telephone companies and for the use of telephone lines within the state. *Rev. Codes 1905, sec. 4343, as amended by Laws 1911, ch. 255, sec. 2.*

When any schedule shall have been made or revised, commission shall forthwith serve a copy of said schedule upon such railroad, railroad corporation or common carrier affected thereby and a notice stating when such schedule shall go into effect and cause
839 notice thereof to be published for two consecutive weeks in one public newspaper published in each judicial district in the state, which notice shall state the fact that a new schedule has been made and the date of the taking effect of such schedule, and said schedule shall take effect at the time so stated in such notice. *Same.*

Before finally fixing and deciding what the original maximum rates and classifications shall be commission shall cause notice of such meeting to be given each common carrier affected thereby by mailing a notice thereof addressed to the managing officer thereof at the address given in the last report of such common
840 carrier to the secretary of state, or to such address as may have been given to and filed with commission, at least 30 days before the date of such hearing, and publish ten days' notice in two daily papers published in the state, setting forth in such notice that at

a certain time and place it will proceed to fix and determine such maximum rates and classifications. *Same.*

And it shall at such time and place and as soon as practicable afford to any person, firm, corporation, railroad, railroad corporation
841 tion or common carrier who may desire it an opportunity to make an explanation or showing or to furnish information to commission on the subject of determining and fixing such maximum rates, fares and classifications. *Same.*

The schedule of rates, fares and classifications of freights or
842 property on all lines of railroad, railroad corporations and common carriers shall be fixed within 60 days from the taking effect of this article. *Same.*

OKLAHOMA Commission shall from time to time prescribe and enforce against transportation and transmission companies, in the manner hereinafter authorized, such rates, charges, classifica-
843 tions of traffic and rules and regulations and shall require them to establish and maintain all such public service facilities and conveniences as may be reasonable and just. *Const., art. ix., sec. 18.*

Before commission shall prescribe or fix any rate, charge or classification of traffic, and before it shall make any order, rule, regulation or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation, or requirement,
844 shall first be given by commission, at least ten days' notice of the time and place when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses. *Same.*

Before commission shall make or prescribe any general order, rule, regulation or requirement not directed against any specific company or companies by name, the contemplated general order, rule, regulation, or requirement shall first be published in substance not less than once a week, for four consecutive weeks, in one or more of the newspapers of general circulation published in the county in which the capitol of this state may be located,
845 together with the notice of the time and place, when and where commission will hear any objections which may be urged by any person interested, against the proposed order, rule, regulation, or requirement; and every such general order, rule, regulation or requirement, made by commission, shall be published at length,

for the time and in the manner above specified, before it shall go into effect, and shall also, so long as it remains in force, be published in each subsequent annual report of commission. *Same.*

The authority of commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges and classifications of traffic for transportation and transmission companies shall, subject to regulation by law, be paramount, but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the legislature to legislate thereon by general laws; provided, 843 however, that nothing in this section shall impair the rights which have heretofore been or may hereafter be conferred by law upon the authorities of any city, town or county to prescribe rules, regulations or rate of charges to be observed by any public service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town or county so far as such services may be wholly within the limits of the city, town or county granting the franchise. *Same.*

OREGON

See par. 4520.

SOUTH CAROLINA The powers conferred upon commission to fix passenger and freight rates, joint and several, are delegated to it 847 by general assembly as fully as the general assembly itself could exercise them. *Gen. Stats. 1902, sec. 2082.*

Commission in arriving at its conclusion and decisions as to what are just and reasonable rates, and in making examinations for such purpose, shall have the powers conferred in sections 2077, 2078, 2079 and 2080 for securing the attendance of witnesses, 849 reports and testimony of officers, agents or employes of railroad companies, and for the production of books and papers; and for violation of the provisions of this section, the same penalties are hereby imposed as are provided in said sections respectively; and such witnesses shall receive the compensation prescribed in section 2077. *Same.*

Commissioners may examine all agents and employes of said railroad companies and other persons under oath and otherwise, in order to procure the necessary information to make just and reasonable rates of freight and passenger tariffs, and ascertain if such rules and regulations are observed or violated, and 849 make necessary and proper rules and regulations concerning such examinations, and which rules and regulations herein provided for shall be obeyed and enforced as all other rules and regulations provided for in this chapter. *Same.*

Also provisions substantially identical with pars. 783, 784,
280 except that "but said passenger rates shall not exceed the
maximum prescribed in section 2165" is included in par. 783.
Same, secs. 2092, 2093.

Commission shall fix and regulate the rates or tolls to be
charged by the owners or operators of all telephone lines, stations
or exchanges for the transmission of intelligence for hire and
require reasonable connections to be made and maintained when
practicable between such lines, stations or exchanges and fix and
regulate reasonable rates, tolls and compensation therefor, and
also require reasonable connections to be made and maintained
when practicable between any such lines, stations or exchanges
and the lines or stations of private individuals, firms or corpora-
tions desiring such connections, and fix and regulate the rates,
tolls or compensation therefor; and also make and enforce rules
and regulations by which all persons, firms, or corporations
owning or operating telephone lines, stations or exchanges in
the state for the transmission of intelligence for hire shall be
281 governed in the conduct of said business; provided, that in the
cities and towns where franchises have been granted by any
city or town to operate and maintain a telephone exchange or
exchanges and the rates and tolls are fixed in any such
franchise so granted, nothing herein shall permit any increase
in the rates and tolls so fixed for service now furnished, whether
local or otherwise, except by agreement with the municipal au-
thorities in any such city or town and the subscribers; provided,
further, that except by agreement with subscribers no change
shall be made in any existing rates without a hearing by commis-
sion which shall be had at such time and place as shall be desig-
nated by commission most convenient to the parties interested
and of which commission shall publish a notice in at least one
newspaper most likely to give notice to the parties interested once
a week for at least four weeks. *Laws 1904, no. 281, sec. 1.*

A public service commission appointed as provided by law
shall be authorized to fix and establish in all cities of the state
now and hereafter incorporated under any general or special law
282 of the state maximum rates and charges for the supply of water,
gas or electricity furnished by any person, firm or corporation to
such city and the inhabitants thereof, such rates to be reasonable
and just. *Laws 1910, no. 286, sec. 1.*¹

¹ Upon complaint in writing of 20 or more citizens to the mayor or council of any such city, that any person, firm or corporation is charging an unjust or unreasonable rate for water, gas or electricity, furnished by the same, the said city, mayor or council may request the public service commission to summon such person, the members of such firm or the officers of

Any person, firm or corporation now or hereafter owning or operating such water, gas or electric plant, who shall fail or refuse to accept the rate fixed by commission to be charged for water, gas or electricity, and instead thereof shall charge, demand or receive a greater amount than that fixed by commission aforesaid, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$25 nor more than \$100, and each overcharge to any consumer of water, gas or electricity shall constitute a separate offense, to be recovered in any court of competent jurisdiction, one-half of such fine as may be imposed going to the informer and the other half to go to such city where the complaint arises. *Same, sec. 3.*

The provisions of this act shall not apply to the cities of Charleston, Marion, Spartanburg, Sumter and Union or the town of Conway. *Same, sec. 5.*

See also par. 1936.

SOUTH DAKOTA Commission shall make for each of the railroad corporations as soon as practicable a schedule of reasonable maximum fares and rates of charges for the transportation of passengers, freight and cars on each of said railroads, and said power to make schedules shall include the power of classification of all such freights and commission shall make such classification. *Rev. Pol. Code 1903, sec. 450.*

Provided, the maximum compensation per mile for the transportation of any person with ordinary baggage not exceeding 150 pounds shall not be more than two and one-half cents per mile between points where the distance traversed is entirely within the state, except upon narrow gauge railroads, and commission shall for the purpose of making a maximum fare and charges for the transportation of passengers and freight classify said railroads as far as practicable according to the gross amount of their respective annual earnings per mile within the state for the three years preceding the time of making the classification. *Same.*

When any schedule shall have been made or revised as provided by law commission shall cause notice thereof to be published for two successive weeks in two public newspapers pub-

such corporation to appear before them, with their books relating to such matters, when such examination shall be made as may be necessary to determine whether or not the said rates are unjust or unreasonable; and if upon such examination the said public service commission shall determine that the said rates are unreasonable or unjust, it shall be their duty to fix such rates to be paid for water, gas or electricity as they may deem to be just and reasonable; provided, that in case the said public service commission shall fix unjust and unreasonable rates the same may be reviewed and determined by the circuit court of the county in which such city is located. *Acts 1910, no. 286, sec. 2.*

lished, one in the county of Minnehaha and one in the county of Lawrence in the state, which notice shall state the date of the taking effect of such schedule and said schedule shall take effect at the time so stated in such notice. *Same.*

Before finally fixing and deciding what the original maximum rates and fares and classifications shall be, commission shall publish ten days' notice in two daily papers published, one in the county of Minnehaha, another in the county of Lawrence, setting forth in such notice that at a certain time and place it will proceed to fix and determine such maximum rates, fares and classifications, and commission shall at such time and place and as soon as practicable afford to any person, firm or corporation or common carrier who may desire it an opportunity to make an explanation or showing or to furnish information to commission on the subject of determining and fixing such maximum rates and classifications. *Same.*

Before commission shall make any individual rate or schedule of maximum telephone rates or order any connections, commission shall give ten days' notice of the time and place when and where it will meet to fix and determine such rates and order connection, by sending notices to said company or owner by registered mail, at the place of business of said company or owner as given in its report filed under the provisions of section four of this act, and any person may appear at such hearing and be heard or examined by commission, touching the question under consideration. *Sess. Laws 1909, ch. 289, sec. 5, as amended by Sess. Laws 1911, ch. 218, sec. 3.*

A certified copy of every order of commission affecting the rates of any telephone company shall be served upon an officer or station agent of such company or may be mailed to said company at the place of business given in its filed report, and shall take effect and become operative 20 days after such service, unless commission shall otherwise order. *Same, sec. 9.*

Commission shall within 60 days after this act goes into effect prepare for each of the express companies a uniform schedule or schedules of reasonable maximum rates of charges for the transportation of express freight between stations within the state over lines of railway wholly within the state. The schedule or schedules so prepared shall take effect and be in force at such time as may be specified by commission in its order adopting such schedule which shall be in no event later than ten days after the expiration of the 60 days above designated. *Sess. Laws 1911, ch. 152, sec. 1.*

The order of commission adopting such schedule or schedules
of rates shall be enforced in the same manner as now provided
by law for the enforcement of any other order made by com-
mission. *Same, sec. 2.*

Commission shall make for each of the common carriers
doing business in the state a schedule of reasonable maximum
fares and rates of charges for the transportation or transmission
of passengers, freight, cars, express and messages by telephone on
or over each of said common carriers, and said power to make
schedules shall include the power of classification of all such
freights, express and messages by telephone and commission
shall make such classification. Commission may fix different
rates or schedules of rates for different common carriers and for
different lines and different parts of the same line of any common
carrier. *Sess. Laws 1911, ch. 207, sec. 20.*

When any schedule shall have been made or revised commis-
sion shall cause notice thereof to be given each common carrier by
serving such notice with a copy of said schedule attached thereto
upon any station agent, clerk, superintendent, secretary, pres-
ident or directors of such common carrier within the state or
by mailing said notice and schedule to any such agent or to any
such officer of such common carrier, which notice shall state the
date of the taking effect of said schedule, and said schedule shall
take effect at the time so stated in such notice. *Same.*

Before finally fixing and deciding what the original maximum
rates and fares and classifications shall be commission shall serve
upon each common carrier in the manner provided in this section
for giving notice of the taking effect of any schedule, at least ten
days' notice of the time and place when and where commission
will proceed to fix and determine such maximum rates, fares and
charges and commission will at such time and place and as soon as
practicable afford to any person, firm or corporation or common
carrier who may desire it an opportunity to make an explanation
or showing or to furnish information to commission on the sub-
ject of determining and fixing such maximum rates and charges.
Same.

Commission may fix and regulate all switching charges ex-
acted by any common carrier engaged in intrastate commerce
and classify all common carriers doing business in the state, as
well as make full and complete classifications of freight, express
and telephone messages. *Same, sec. 50.*

Commission may fix and determine any and all rates and

857 charges for the transmission of any message by telephone or any service in connection therewith, including individual rates as well as schedules of rates. *Same, sec. 52.*

Commission may fix and determine any and all charges made
858 to the public for the carrying of express freight. *Same, sec. 53.*
See also par. 342.

TENNESSEE

Commission shall supervise and fix the rates, charges and regulations of railroad freight and passenger tariffs; correct abuses and prevent unjust discrimination and extortions in the rates for freight and passenger tariffs on the different rail-
859 roads in the state, and require the location of such depots and the establishment of such freight and passenger buildings as the conditions of the roads, safety of freight, and public comfort may require. *Acts 1897, ch. 10, sec. 8(1), as amended by Acts 1907, ch. 390, sec. 2.*

All persons or corporations owning or operating a railroad in the state shall within 30 days after the passage of this act furnish commission with their tariff of charges for transportation of every kind, and commission shall revise said tariff charges so furnished and determine whether or not and in what particular, if any, said
870 charges are more than just compensation for the service rendered, and whether or not unjust discrimination is made in such tariff of charges against any person, locality or corporation, and when such charges are corrected, as provided by commission, commission shall then append a certificate of its approval to said tariff of charges. *Same, sec. 22.*

Commission shall exercise a careful and watchful supervision over every tariff of charges from time to time as justice to the public and each of the railroads may require and increase or
871 reduce any of said rates according as experience and business operations may show to be just; and commission shall accordingly fix the tariffs of charges for those railroads failing to furnish tariffs of charges as above required. *Same.*

When any change is contemplated to be made in the schedule of passenger or freight rates of any railroad by commission, whether by revising rates already fixed by commission or by fixing
872 and establishing rates originally, commission shall give the person or corporation operating or managing said railroad notice in writing at least ten days before the change of the time and place at which such change may be considered. *Same.*

Where any city or town in the state has competition existing in freight rates between railroads and rivers commission shall

873 regulate the freight rates of all railroads in the cities or towns so situated, according to the rates fixed and charged by river transportation companies in competition with such railroads. *Same, sec. 34.*

TEXAS

Commission shall adopt all necessary rates, charges and regulations to govern and regulate railroad freight and passenger tariffs, shall correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in the state, and shall enforce the same by having the penalties inflicted as by law prescribed through proper courts having jurisdiction. *Sayles' Civ. Stats. 1897, art. 4562.*

875 Also provision substantially identical with pars. 818, 819. *Same, arts. 4562(1), 4562(4).*

Commission shall fix to each class or subdivision of freight a reasonable rate for each railroad for the transportation of each of said classes and subdivisions. *Same, art. 4562(2).*

The classifications herein provided for shall apply to and be the same for all railroads subject to the provisions of this chapter. *Same, sec. 4562(3).*

878 Also a provision identical with par. 827. *Same, art. 4562(7).*

Before any rates shall be established, commission shall give the railroad company to be affected thereby ten days' notice of the time and place when and where the rates shall be fixed; and said railroad company shall be entitled to be heard at such time and place to the end that justice may be done; and it shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases. *Same, art. 4563.*

Commission shall, as soon as the classifications and schedules of rates provided by law are prepared by it, furnish each railroad with a complete schedule in suitable form showing the classification of freight made by it and the rates fixed by commission to be charged by said road for the transportation of each class of freight, and shall cause a certified copy of such classification and schedule of rates to be delivered to each of said railroads at its principal office in the state, if it has such office in the state, and if not, then to any agent of said company in the state, which said schedule, rules and regulations shall take effect at the date which may be fixed by commission not less than 20 days. *Same, art. 4567.*

In all cases where the rates shall not have been fixed by commission no changes shall be made except after ten days' notice to and consent of commission. *Same.*

Commission shall fix and establish reasonable and just rates of charges for each class or kind of property, money, papers, packages and other things to be charged for and received by each express company on all such property, money, papers, packages and things which by the contract of carriage are to be transported
882 by said express company between points wholly within the state, which rates or charges may be made to apply to all such companies. Commission shall have the same power to make and prescribe such rules and regulations for the government and control of such express companies as is or may be conferred upon commission for the regulation of railroads. *Same, art. 4582.*

VIRGINIA Provisions substantially identical with pars. 843, 844, 845, 846, except that par. 845 requires that the news-
883 papers in which publication is made shall be published in the city of Richmond, Virginia. *Const., sec. 156(b).*

Commission shall from time to time make and enforce such requirements, rules and regulations as may be necessary to prevent unjust or unreasonable discrimination by any transportation
884 or transmission company in favor of or against any person, locality, community, connecting line or kind of traffic in the matter of car service, train or boat schedule, efficiency of transportation or otherwise in connection with the public duties of such companies. *Same.*

WISCONSIN Commission shall provide for a comprehensive classification of service for each public utility and such classification may take into account the quantity used, the time when
885 used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls and charges to such classification. *Laws 1907, ch. 499, sec. 1797m—35.*

C. AUTHORITY OF COMMISSION ON ITS OWN MOTION OR ON COMPLAINT AFTER INVESTIGATION TO CHANGE RATES AND CHARGES PREVIOUSLY IN FORCE AND TO FIX, ESTABLISH OR PRESCRIBE OTHERS IN LIEU THEREOF TO BE FOLLOWED IN THE FUTURE.

UNITED STATES Whenever a carrier by railroad shall in competition with a water route or routes reduce the rate on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition. *Act to Regulate Commerce, sec. 4.*

Whenever after full hearing upon a complaint made as provided in section 13 of this act, or after full hearing under an order for investigation and hearing made by commission on its own initiative (either in extension of any pending complaint or without any complaint whatever) commission shall be of opinion that any individual or joint rates or charges whatsoever, demanded, charged or collected by any common carrier or carriers for the transportation of persons or property, or for the transmission of messages by telegraph or telephone, or that any individual or joint classifications, regulations, or practices whatsoever of such carrier or carriers are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this act, commission may determine and prescribe what will be just and reasonable individual or joint rate or rates, charge or charges to be thereafter observed in such case as the maximum to be charged, and what individual or joint classification, regulation or practice is just, fair and reasonable to be thereafter followed, and may make an order that the carrier or carriers shall cease and desist from such violation to the extent to which commission finds the same to exist, and shall not thereafter publish, demand or collect any rate or charge for such transportation or transmission in excess of the maximum rate or charge so prescribed, and shall

adopt the classification and shall conform to and observe the regulation or practice so prescribed. *Same, sec. 15.*

ALABAMA

Upon complaint of any person, firm, corporation or association, or of any mercantile, agricultural, or manufacturing society or of any body politic or municipal organization, that any of the rates, fares, charges or classifications, or any joint rate or rates, are in any respect unreasonable, or unjustly discriminatory, or that any regulation or practice whatsoever, affecting the transportation of persons or property, or any service in connection therewith, are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice whatsoever affecting the transportation of persons or property or any service in connection therewith, are in any respect unreasonable or unjustly discriminatory, or that any service is inadequate, commission may notify the transportation company complained of that complaint has been made, and ten days after such notice has been given commission may proceed to investigate the same as hereinafter provided. *Code 1907, sec. 5667.*

Before proceeding to make such investigation, commission shall give the transportation company and the complainant ten days' notice of the time and place when and where such matters will be considered and determined, and said parties shall be entitled to be heard, through themselves or their counsel, and shall have process to enforce the attendance of witnesses. *Same, sec. 5668.*

If upon investigation, the rate or rates, fares, charges or classification, or any joint rate or rates or any regulation, practice or service complained of shall be found to be unreasonable or unjustly discriminatory, or the service shall be found to be inadequate, commission may fix and order substituted therefor such rate or rates, fares, charges or classifications as it shall have determined to be just and reasonable, and which shall be charged, imposed and followed in the future, and may make such orders respecting such regulation, practice or service as it shall determine to be reasonable and which shall be observed and followed in the future. *Same, sec. 5669.*

Commission may, when complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such time as it may prescribe. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. *Same, sec. 5670.*

Whenever commission may believe that any rate or charge may be unreasonable, or unjustly discriminatory or that any service is inadequate and that an investigation relating thereto should be made, it may on its own motion investigate the same. If after making such investigation commission becomes satisfied that sufficient grounds exist to warrant a hearing to determine
892 whether the rate or charge so investigated is unreasonable or unjustly discriminatory or whether the service investigated is inadequate it shall furnish the transportation company or companies interested a statement setting forth the rate, charge or service investigated, which said statement shall be accompanied by a notice fixing the time and place for hearing on such rate, charge or service as the case may be. *Same, sec. 5671.*

Notice may also be given to other parties in interest, and shall be given at least ten days in advance of any hearing, and
893 thereafter proceedings shall be had and conducted in reference to the matter investigated pursuant to the provisions of sections 5667 and 5668 of this chapter. *Same.*

This shall be construed to permit any transportation company to make a complaint with like effect as though made by any
894 person, firm, corporation or association, mercantile, agricultural or manufacturing society, body politic or municipal organization. *Same.*

Whenever upon an investigation made under the provisions of this chapter commission shall find any existing rate or rates or any regulation or practice whatsoever, affecting the transportation of persons or property or any service in connection therewith unreasonable or unjustly discriminatory or any service inadequate it shall so determine and by order fix a reasonable rate, fare, charge, classification or joint rate to be imposed,
895 observed and followed in the future in lieu of that found to be unreasonable or unjustly discriminatory or inadequate as the case may be, and it shall cause a certified copy of such order to be delivered to any officer, superintendent or station agent of the transportation company affected thereby, which order shall of its own force take effect and become operative, 20 days after the service thereof. *Same, sec. 5678.*

All transportation companies to which the order applies shall make such changes in their schedules on file as may be necessary to make the same conform to said order, where such order
896 relates to rates, fares, charges, or classification, and no change shall be made by any transportation company in the rates, fares,

charges or classification, or joint rate or rates or in the service or practice so ordered, without the approval of commission. *Same.*

897 Certified copies of all orders of commission shall in like manner be delivered to the transportation company affected thereby, and the same shall take effect within such time thereafter as commission shall prescribe. *Same.*

ARIZONA, CALIFORNIA

Whenever commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges, or classifications, or any of them, demanded, observed, charged, or collected by any public service corporation¹ for any service or product or commodity, or in connection therewith, including the rates or fares for excursion, or commutation tickets, or that the rules, regulations, practices, or contracts, or any of them, affecting such rates, fares, tolls, 898 rentals, charges or classifications, or any of them are unjust, unreasonable, discriminatory or preferential, or in anywise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges, or classifications are insufficient, commission shall determine the just, reasonable, or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided. *Ariz.—Sess. Laws 1912, ch. 90, sec. 32(a). Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 32(a).*

Commission may, upon a hearing, had upon its own motion or upon complaint, investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract, or practice, or any number thereof, or the entire schedule or schedules of rates, 899 fares, tolls, rentals, charges, classifications, rules, regulations, contracts and practices, or any thereof, of any public service corporation,¹ and establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, or practices, or schedule or schedules, in lieu thereof. *Ariz.—Same, sec. 32(b), Cal.—Same, sec. 32(b).*

See also pars. 3674, 3676.

COLORADO

Commission shall, whenever after full hearing upon a complaint made as provided herein, or upon complaint of any common carrier, shipper, consignee, or applicant for cars, it shall be of opinion that any of the rates or charges complained

¹"Public utility," in California.

of and demanded, charged or collected by any common carrier or common carriers affecting such rates or charges are unjust or unreasonable, or are unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this act, determine and prescribe in what respect such rates, charges, regulations or practices are unjust or unreasonable, or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this act, and make an order that the common carrier shall cease and desist from such violation and shall not thereafter publish, demand or collect such rate or charge for such transportation or seek to enforce the regulation or practice, so determined to be unjust. *Laws 1910, sp. sess., ch. 5, sec. 15.*

CONNECTICUT Any town, city, or borough within which or between which, and any other town, city or borough in the state, any public service company is furnishing service, or any ten patrons of any such company, or any such company furnishing service in accordance with or at rates prescribed by an order of commission, may bring a written petition to commission alleging that the rates or charges made by such company or prescribed by commission are unreasonable or that the service furnished by such company is inadequate to, or the service ordered by commission exceeds, public necessity and convenience. Thereupon commission shall fix a time and place for a hearing upon such petition and shall mail notice thereof to the parties in interest and shall give due public notice at least one week prior to such hearing. Upon said hearing, commission may, if it finds such rates and charges to be unreasonable or such service to be inadequate or excessive, determine and prescribe an adequate service to be thereafter furnished or just and reasonable maximum rates and charges to be thereafter made by such company, and such company shall thereafter furnish the service so prescribed and shall not thereafter demand any rate or charge in excess of the maximum rate or charge so prescribed. *Pub. Acts 1911, ch. 128, sec. 23.*

See also par. 2315.

INDIANA Commission shall as provided by law from time to time alter, change, amend to abolish any classifications or rates established by any railroad company or companies whenever found to be unjust, unreasonable or discriminative, and make and substitute for said unjust, unreasonable or discriminative rates or classifications, amended, altered or new classifica-

902 tions or rates, which shall be put into effect by said railroad company or companies, and in case any carrier fails to have any rate or schedule of rates to any point of its line, or on any connecting line in the state, commission as provided by law may make and order a rate or schedule of rates which shall be published and put into effect by said carrier or carriers. *Acts 1907, ch. 241, sec. 3(d).*

The power of commission extends to any case where any person, firm, corporation or association or any mercantile, agricultural or manufacturing society or any body politic or municipal organization complain of anything done or omitted to be done by any common carrier and shall apply to commission by petition which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by commission to such common carrier who shall be called upon to satisfy the complaint or to answer same in writing within a reasonable time to be specified by commission. If such carrier shall not satisfy the complaint within the time specified or there shall appear to be any 903 reasonable ground for investigating said complaint, commission shall investigate the matters complained of, and no complaint shall at any time be dismissed because of the absence of direct damage to complainant. And commission may, after such investigation, make such corrections, alterations, changes or new rules or regulations or rates as may be necessary to prevent injustice or discrimination to the party complaining or to any other person, firm or corporation; provided, that when any rate, charge, classification, rule or regulation shall have been so made, changed, modified or added to by commission such order shall operate for the benefit of all persons or corporations situated similarly with said complaining party. *Same, sec. 3(h).*

Before any rates or charges of railroads or express companies or other carriers or companies shall be revised or changed under the provisions of this act, and before any order shall be made by commission changing the rules and regulations of any such company respecting car service, the transfer or switching of cars from one railroad to another, or respecting the location or construction of sidings and connections between roads or respecting joint 904 rates or charges by two or more such companies, commission shall give the company or companies affected by such proposed order or revision, not less than ten days' written notice of the time and place where such rates or charges or the matters involved in said proposed order shall be considered; and such com-

pany shall be entitled to a hearing at the time and place specified in such notice and shall have process to enforce the attendance of witnesses. All process herein provided for shall be served as in civil cases. *Same, sec. 4.*

In addition to the authority vested in commission to determine what shall be just, reasonable and indiscriminative rates for further observance, upon complaint, filed as provided in this act, commission, whenever it is of the opinion that the rates charged by such carriers upon any kind of property in the state or that the rates upon any carrier's lines in the state, or that any class of rates in force upon the carrier's lines in the state, or any part thereof, are excessive or unjust or discriminative or unduly prejudicial or in violation of the laws of the state, commission
906 shall investigate the same, and for that purpose, commission shall give carrier or carriers interested therein, 20 days' notice of the purpose to make such investigation, stating what rates are to be investigated and requiring the carrier so notified to appear at the time and place specified in such notice and to be heard therein if they so desire. At any hearing, any party interested in such rates shall be heard by commission, either in person or by counsel, and commission may after such investigation make such corrections, alterations, changes or new rules or regulations or rates, as may be necessary to prevent injustice or discrimination. *Same, sec. 7(a), as amended by Acts 1911, ch. 185, sec. 1.*

Commission shall as soon as any revision or classification or schedule of rates or charges or regulations are adopted by it, furnish each railroad company affected thereby with a certified
908 copy thereof in suitable form, showing the revision, alteration, rule or regulation made by commission, to be delivered to each such carrier by depositing the same in a United States postoffice, in a duly stamped and addressed envelope, directed to some officer or agent of the carrier in the state. *Same, sec. 8(a).*

Nothing in this act shall authorize or empower commission or any court of the state to establish, change or modify any rate
907 or charge for any service to be performed by any common carrier in the state, where the rate or charge is now established or which may hereafter be established by any valid law of the state. *Same, sec. 8(b).*

See also par. 3680.

IOWA

Commission shall give notice of its intention to revise or change schedules by publishing a notice thereof in two weekly newspapers, published at the seat of government for two

consecutive weeks, and the last publication of such notice shall be at least ten days before the time fixed for considering the matter, and such notice shall contain in general terms a statement of the matters commission proposes to consider, and the date when and the place where the matter will be taken up and shall be addressed to all persons interested therein. When any schedule is revised, commission must cause notice thereof to be published for two successive weeks in some public newspaper printed at the seat of government which shall state the date of the taking effect thereof, and it shall take effect at the time so stated. *Code 1897, sec. 2138.*

When any person, in his own behalf or in behalf of a class of persons similarly situated, or a firm, corporation or association or any mercantile, agricultural or manufacturing society or any body politic or municipal organization shall make complaint to commission that the rate charged or published by any railway company or the maximum rates fixed by commission in the schedule of rates made by it or the maximum rate fixed by law, is unreasonably high or discriminating commission shall investigate the matter and if the charge appears to be well founded, fix a day for hearing the same, giving the railway company notice of the time and place thereof by mail directed to any division superintendent, general or assistant superintendent, general manager, president or secretary of such company, which notice shall contain the substance of the complaint, also the person or persons complaining. *Same, sec. 2139.*

Upon the hearing, commission shall receive any evidence and listen to any argument, offered or presented by either party relevant to the matter under investigation, and the burden of proof shall not be upon the person or persons making the complaint; but it shall add to the showing made at such hearing whatever information it may then have or can obtain from any source, including schedules of rates actually charged by any railway company for substantially the same kind of service in this or any other state. The lowest rates published or charged by any railway company for substantially the same kind of service, whether in this or another state, shall at the instance of the person or persons complaining, be accepted as prima facie evidence of a reasonable rate for the service under investigation; and if the railway company complained of is operating a line of railroad beyond the state, or has a traffic arrangement with any such railway company, the same shall be taken into consideration in deter-

mining what is a reasonable rate; if it be operating a line of railway beyond the state, the rate charged or established for substantially a similar or greater service by it in another state shall also be considered. *Same, sec. 2140.*

After such hearing and investigation, commission shall fix and determine the maximum charges to be thereafter made by the railroad company or common carrier complained of, which charge shall in no event exceed the one now or hereafter fixed by law and commission shall render its decision in writing and shall spread the same at length in the record to be kept for that purpose; such decision shall specifically set out the sums or rate which
911 the railroad company or common carrier so complained of may thereafter charge or receive for the service therein named and including a classification of such freight; and commission shall not be limited in its said decision and the schedule to be contained therein to the specific case or cases complained of, but it shall be extended to all such rates between points in the state and whatever part of the line of railway of such company or common carrier within the state may have been fairly within the scope of such investigation. *Same, sec. 2141.*

See also par. 2442.

KANSAS

Whenever the purchasers of water from any irrigation company shall consider the rate of charges of such company for the use of water, to be unreasonable, extortionate or unjust, they or any one of them may appeal to commission and if commission shall consider such complaint just, it shall proceed to
912 notify the irrigation company and the complainants that 30 days from date of such notice it will at the county seat within the county from which the complaint came hear testimony in relation thereto; and if after hearing such testimony and making investigation it shall decide that such rates are extortionate and unjust, it shall fix a rate of compensation for the use of water. *Gen. Stats. 1909, sec. 4477.*

Commission shall from time to time alter, change or amend any schedule, classification, rate, rule or regulation established by any railroad company or companies or other common carrier on complaint as hereinafter provided, so that such schedule, classification, rate, rule or regulation shall be reasonable and just
913 and such amended, altered or new schedule, classification, rate, rule or regulation shall be put into effect by said railroad company or companies within not more than 30 days after receiving written notice of the order of commission, provided that before

such order is made by commission, notice and a hearing shall be given as required in section nine of this act. *Same, sec. 7170.*

914 When a complaint has been made which involves general rates or classifications or general rates on certain commodities, commission shall investigate and determine all matters so involved without regard to the subsequent action of the parties making such complaint for the withdrawal of the complaint, and whenever commission shall determine what is a reasonable charge for any freight based on the classification existing at the time of such determination, such rates and classifications and all rates and classifications now in effect shall not be altered thereafter without the consent of commission, but such determination as to what is a reasonable charge shall be determined according to the classification then existing. *Same, sec. 7196.*

In all cases where complaints shall be made in accordance with the provisions of section 18 of this act¹ that an unreasonable charge is made, or that the rates charged for freight are unjust, unreasonable or extortionate, and commission shall find such complaint to be true, it shall require a modified charge for the service rendered such as it shall deem to be reasonable and shall certify its findings to the managing officer of the road against which complaint is made; and the rates so determined by commission to be reasonable shall be by the railroad company affected thereby accepted and posted in a conspicuous place in each depot on the line of its road that may be designated by commission; and if any railroad company shall fail for a period of ten days to accept such rates and post the same as herein provided in each depot on the line of its road that may be designated
915 by commission, then commission shall cause the rates so determined by commission to be reasonable to be published in the official state paper, and thereupon and after such publication such rates so found shall, in all actions arising in any court in the state, be taken to be reasonable compensation for the services for which they are provided, until the contrary is proven; and all compensation demanded or received by any such railroad company in excess of the rates so determined by commission shall, in any such action, be taken to be unjust, unreasonable, and extortionate, until the contrary is proven. All cases of a failure to comply with the recommendation of commission shall be embodied in the annual report of commission to the governor and the same shall apply to any unjust discrimination, extortion

¹Laws 1901, ch. 286.

or overcharge by said company, or other violation of this act by such company. *Same, sec. 7197.*

916 Upon complaint in writing made to commission that an unreasonable price has been charged by a railroad company, commission shall investigate such complaint and if sustained, shall make a certificate under its seal, setting forth what is a reasonable charge for the service rendered, which shall be prima facie evidence of the matter therein stated. *Same, sec. 7199.*

917 Neither commission nor any railroad company shall raise the charge for the transportation of freight on any railroad without first giving 60 days' public notice of such charge in such manner as commission may determine. *Same, sec. 7213.*

918 Upon complaint in writing made against any common carrier or public utility by any mercantile, agricultural or manufacturing organization or society or by any body politic or municipal organization or by any taxpayer, firm, corporation, or association that any of the rates or joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of such public utility or common carrier are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential or both, or that any regulation, practice, or act whatsoever, affecting or relating to any service performed or to be performed by such public utility or common carrier for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient, insufficient, unjustly discriminatory or unduly preferential, or any service performed or to be performed by such public utilities or common carrier for the public is unreasonably inadequate, inefficient, unduly insufficient, or cannot be obtained, commission shall proceed with or without notice to make such investigation as it may deem necessary. *Laws 1911, ch. 238, sec. 14.¹*

Commission may, upon its motion, and without any com-

¹ It shall be the duty of commission, either upon complaint or upon its own initiative, to investigate all rates, joint rates, fares, tolls, charges and exactions, classifications or schedules of rates, or joint rates and rules and regulations, and if, after full hearing and investigation, commission shall find that such rates, joint rates, fares, tolls, charges or exactions, classifications or schedules of rates, or joint rates, or rules and regulations, are unjust, unreasonable, unjustly discriminatory or unduly preferential, commission shall have power to fix and order substituted therefor such rate or rates, fares, tolls, charges, exactions classifications or schedules of rates or joint rates and such rules and regulations as shall be just and reasonable. If upon any investigation, it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient, insufficient, unduly preferential, unjustly discriminatory or otherwise in violation of any of the provisions of this act or of the orders of this commission, or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such changes in such regulations, measurements, practices, service or acts as shall be just and reasonable. Whenever, in the judgment of commission, public necessity and convenience require, commission shall have power to establish just and reasonable concentration, commodity, transit or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and condition. *Laws 1911, ch. 238, sec. 13.*

919 complaint being made, proceed to make such investigation, but no order affecting such rates, joint rates, tolls, charges, rules, regulations, classifications, schedules, practices or acts complained of shall be made or entered by commission without a formal public hearing of which due notice shall be given by commission to such public utility or common carrier, or to such complainant or complainants, if any. Commission may require such public utility or common carrier to make such improvements and do such acts as are or may be required by law to be done by such public utility or common carrier. *Same.*

920 If upon hearing and investigation, the rates, joint rates, fares, tolls, charges, rules, regulations, classifications, or schedules of any common carrier or public utility, are found to be unjust, unreasonable, unfair, unjustly discriminatory, or unduly preferential, or in anywise in violation of the provisions of this act, or of any of the laws of the state, commission may fix and establish and order substituted therefor, such rates, joint rates, fares, tolls, charges, rules, regulations, classifications, or schedules as it shall find, determine or decree to be just, reasonable and necessary; and if it shall be found that any regulation, practice or act whatsoever, relating to any service performed or to be performed by such public utility or common carrier for the public in any respect unreasonable, unjust, unfair, unreasonably inefficient, insufficient, unjustly discriminatory or unduly preferential or otherwise in violation of any of the provisions of this act, or of any of the laws of the state, commission may substitute therefor such other regulation, practice, service or act as it finds and determines to be just, reasonable and necessary. *Same, sec. 16.*

921 All orders and decisions of commission, whereby any rates, joint rates, fares, tolls, charges, rules, regulations, classifications, schedules, practice or acts, relating to any service performed or to be performed by such public utility or common carrier for the public, are altered, changed, modified, fixed or established, shall be reduced to writing and a copy thereof duly certified shall be served on the public utility or common carrier affected thereby by registered mail, and such order and decision shall become operative and effective within 30 days after such service, and such public utility or common carrier shall, unless an action is commenced in a court of proper jurisdiction to set aside the findings, orders and decisions of commission or to review and correct the same, carry the provisions of said order into effect. *Same.*

See also pars. 2443, 3682.

KENTUCKY

When complaint shall be made to commission, accusing any railroad company or corporation of charging, collecting or receiving extortionate freight or passenger rates over its line or lines of railroad in the state, or when commission shall receive information or have reason to believe that such rate or rates are being charged, collected or received, commission shall hear and determine the matter as speedily as possible. It shall give the company or corporation complained of, not less than ten days' notice by letter mailed to an officer or employe of said company or corporation, stating the time and place of the hearing of same, also the nature of the complaint or matter to be investigated, and shall hear such statements, argument, or evidence offered by the parties as commission may deem relevant, and should commission determine that the company or corporation is or has been guilty of extortion, commission shall make and fix a just and reasonable rate, toll, or compensation which said railroad company or corporation may charge, collect or receive for like services thereafter rendered. The rate, toll, or compensation so fixed by commission shall be entered and be an order on the record book of its office and signed by commission, and a copy thereof mailed to an officer, agent or employe of the railroad company or corporation affected thereby, and shall be in full force and effect at the expiration of ten days thereafter, and may be revoked or modified by an order likewise entered on record. *Carroll's Stats. 1909, sec. 820(a)*.

MAINE

Any railroad corporation may establish and collect for its sole benefit fares, tolls, and charges upon all passengers and property conveyed and transported on its railroad at such rates as may be determined by the directors thereof, and shall have a lien on its freight therefore; and may from time to time by its directors regulate the use of its road, provided, that such rates of fares, tolls and charges and regulations are at all times subject to alteration by the legislature, or by such officers or persons that the legislature may appoint for the purpose, anything in the charter of such corporation to the contrary notwithstanding; and provided, further, that upon what shall at any time be deemed by commission sufficient complaint by interested and responsible parties, that the tolls are unreasonably high, commission may revise and establish them, after due notice and hearing, for a time not exceeding one year, but commission before directing such hearing shall give opportunity to the com-

pany complained of to reply to the charge. *Rev. Stats. 1903, ch. 52, sec. 1.*

MARYLAND

Whenever commission shall be of opinion after a hearing upon its own motion or upon complaint made as provided in this act, that the rates, tolls, fares or charges, demanded, exacted, charged, or collected, by any common carrier, railroad or street railroad, railroad or street railroad corporation or other corporations for the transportation of persons, freight or property, within the state, or that the regulations or practices of such common carrier or corporation affecting such rates, tolls, or services are unjust, unreasonable, unjustly discriminating or unduly preferential or in anywise in violation of any provision of law, commission shall determine the just and reasonable rates, tolls, fares and charges, to be thereafter observed, and enforced as the maximum to be charged for the service to be performed and shall fix the same by order to be served upon all common carriers or other corporations by whom such rates, fares and charges, are thereafter to be observed. *Laws 1910, ch. 180, sec. 23.*

Upon the complaint in writing of the mayor or chief executive official, or officials, of a municipality or county in which a person or corporation is authorized to manufacture, sell or supply gas or electricity for light, heat or power, or upon the complaint in writing of not less than 100 customers or purchasers of such gas or electricity either as to the illuminating power, purity, pressure or price of gas or the initial efficiency of the electric incandescent lamp supply, or the regulation of the voltage of the supply system used for incandescent lighting, or price of electricity sold and delivered in such municipality or county, commission shall investigate as to the cause for such complaint.

When such complaint is made, commission may, by its agents, examiners and inspectors, inspect the works, system, plant and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas and electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any. *Same, sec. 36.*

Before proceeding under a complaint presented as provided in this act, commission shall cause notice of such complaint and the purpose thereof to be served upon the person or corporation affected thereby. Such person or corporation shall have opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. *Same, sec. 37.*

If an investigation be instituted upon motion of commission, the person or corporation affected by the investigation may be permitted to appear before commission at a time and place specified in the notice and answer all charges which may be preferred by commission. *Same.*

After a hearing and after such investigations as may have been made by commission, or its officers, agents, examiners or inspectors, commission may by order fix the maximum price according to law of gas and electricity to be charged by such corporation or person, or may order such improvement in the manufacture or supply of gas, in the manufacture, transmission or supply of electricity, or in the methods employed by such person or corporation as will in its judgment, justly and lawfully improve the service. *Same.*

If it be alleged and established in an action brought in any court for the collection of any charge for gas or electricity, that a price has been demanded in excess of that fixed by commission, or by law in the municipality or county wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action. *Same, sec. 38.*

MASSACHUSETTS Upon complaint in writing of the mayor of a city or the selectmen of a town in which a corporation or company engaged in the manufacture or the sale of gas or electricity for light or heat is located, or of 20 customers thereof either of the quality or price of gas or electric light sold and delivered, commission shall notify the corporation or company by leaving at its office a copy of such complaint and shall thereupon after notice give a public hearing to such petitioner and such corporation or company, and after said hearing may order any reduction in the price of gas or electric light or improvement in the quality thereof, and the report of such proceedings and the result thereof shall be included in its annual report. The maximum price fixed by such order shall not thereafter be increased by such corporation or company except as provided for in the following section. *Rev. Laws 1902, ch. 121, sec. 34.*¹

¹ See footnote 1, par. 276. See also footnote, par. 931.

A gas-company in the state which furnishes gas under the provisions of general or special laws, or of any contract with a city or town and the gas or electric light company which is engaged in the sale and delivery of electric light, may apply to commission to fix and determine the price of gas or electricity to be thereafter sold and delivered by the said company, or to revise any former
931 order or action of commission relative to the quality or price thereof. Commission shall, after notice, give a public hearing to the petitioner, to the city or town and to all other persons interested, and thereafter may pass such orders relative to the price and quality of the gas or electricity thereafter to be furnished by said company, as it determines are just and reasonable. *Same, sec. 35.*¹

Whenever commission shall be of opinion after a hearing had upon its own motion or upon complaint, that the rates, fares or charges or any of them, demanded, exacted, charged or collected by any person, firm, association, company or corporation for the transportation of persons or property within the state or the regulations or practices of such carrier affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly prefer-
932 ential or in anywise in violation of any provision of law, or that the rates, fares or charges or any of them chargeable by any such carrier are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, commission with due regard among other things to a reasonable return upon the value of the carrier's property, shall determine just and reasonable rates, fares and charges to be charged for the service to be performed and shall recommend the same by order to be served upon such carrier. *Acts 1911, ch. 755, sec. 1.*

933 Rates and facilities fixed and determined by statute shall not be revised or regulated by commission. *Same, sec. 3.*

934 Commission shall have all powers necessary or proper to enable it to carry out the provisions of this act. *Same, sec. 4.*

MICHIGAN Upon complaint in writing by any city, village or township, by its duly constituted common or village council or township board, or other duly constituted authority of such city, village or township, relative to the price of electricity sold
935 and delivered in such municipality, commission shall investigate

¹ The provisions of sections 34 and 35 of chapter 121 of the revised laws, so far as they relate to the fixing of the price of gas, shall not hereafter apply to the Boston Consolidated Gas Company. But nothing herein shall be construed as affecting any right or liability which may arise under chapter 34 of the revised laws, or acts in amendment thereof or in addition thereto, or under any other acts not inconsistent herewith. *Acts 1906, ch. 422, sec. 10.*

such complaint and may by its agents, examiners and inspectors, inspect the system and method used in transmitting and supplying electricity, and examine or cause to be examined the books and papers of such person, firm or corporation pertaining thereto. *Pub. Acts 1909, no. 106, sec. 7.*

Commission shall cause notices of such complaint with a copy thereof, to be served on the corporation affected thereby
936 who shall have a right to be heard in respect to the matter complained of at a convenient time and place to be fixed in such notice. *Same.*

After such investigation and hearing, commission within lawful limits may by order fix the maximum price of electricity to be charged by such corporation, and the price so fixed, of which
937 such corporation shall have notice, shall be the maximum price in such municipality until commission shall upon like complaint or upon the complaint of the person, firm or corporation engaged in furnishing such electricity, again fix the maximum price to be charged therefor. *Same.*

Commission shall in no case have power to change or alter
938 the price for electricity fixed in or regulated by or under any franchise heretofore or hereafter granted by any city, village or township. *Same.*

The provisions of the act governing hearings before commission as to rates of transportation of freight by railroads shall so far as applicable govern the hearings before commission herein provided for. *Same.*

Upon complaint in writing of any person, firm or corporation or association or of any mercantile, agricultural or manufacturing society or body politic or municipal organization, that any of the rates, fares, charges or classifications or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice whatsoever affecting the transportation of persons or property or any service in connection therewith is in any respect unreasonable or unjustly discriminatory or that any service is inadequate, commission shall notify
940 the common carrier complained of that complaint has been made and shall furnish a copy of said complaint with said notice and 20 days after such notice has been given commission may proceed to investigate the same as provided by law. *Pub. Acts 1909, no. 300, sec. 22(a).*

Before proceeding to make the investigation commission shall give the said common carrier and the complainants at least

ten days' notice of the time and place when and where such matters
941 will be considered and determined, and said parties shall be en-
titled to be heard and shall have process to enforce the attendance
of witnesses. Such hearings may be continued from time to time
in the discretion of commission. *Same.*

If upon such investigation the rate or rates, joint rate or rates,
fares, charges or classifications, regulation, practice or service
complained of shall be found to be unreasonable, inadequate or
unjustly discriminatory, commission shall determine and by order
fix and order substituted therefor such rate or rates, joint rate or
rates, fares and charges as is or are just and reasonable and which
shall be the maximum to be charged in the future, and such classi-
942 fications, regulation, practice or service as is or are just, reasona-
ble and adequate, and which shall be imposed and followed or
service rendered in future in lieu of that found to be unreasonable,
inadequate or unjustly discriminatory, and in either case com-
mission shall make an order that the common carrier cease and
desist from such violation and shall conform to the regulation
and practice so prescribed, and it shall cause a certified copy of
each such order to be delivered to an officer or station agent of
the common carrier affected thereby, which order shall of its own
force take effect and become operative 20 days after the service
thereof. *Same.*

All common carriers to which the order applies shall on or
before the date the order becomes effective make such changes in
schedules on file as shall be necessary to make the same conform to
943 such order, and no change shall within two years thereafter be
made by any such common carrier in any such rates, fares or
charges or in any such joint rate or rates without the approval
of commission. *Same.*

944 Also provisions for common carriers identical with pars.
891, 897. *Same, secs. 22(a), 22(b).*

Whenever commission shall believe that any rate or rates or
charges may be unreasonable or unjustly discriminatory, or that
any service is inadequate, and that any investigation relating
thereto should be made, it may, upon its own motion, investigate
the same. Before making such investigation, it shall present to
945 the common carrier a statement in writing, setting forth the rate
or charge to be investigated. Thereafter, on ten days' notice to
the common carrier of the time and place of such investigation,
commission may proceed to investigate such rate or charge in the
same manner and make like orders in respect thereto as if such
investigation had been made upon complaint. *Same, sec. 22(c).*

946 Also a provision for common carriers identical with par.
894. *Same, sec. 22(d).*

947 A full and complete record shall be kept of all proceedings
had before commission on any investigation had under section 22
of this act and all testimony shall be taken down by a stenog-
rapher appointed by commission. *Same, sec. 23(d).*

Commission shall have control and supervision over all ex-
press companies and upon complaint made to it or upon its own
motion and after hearing had thereon in accordance with the
rules now in force relative to hearings on complaints by and against
common carriers may from time to time within its discretion
948 change, alter and amend the maximum schedule of rates herein-
before set forth, and may from time to time upon proper applica-
tion or upon its own motion and hearing had thereon, as above
prescribed, change, alter and amend any graduated table or
schedule of charges on merchandise or other property trans-
ported or to be transported, the weight of which is less than 100
pounds. *Pub. Acts 1911, no. 139, sec. 25(f).* •

See also pars. 802, 803, 804.

MINNESOTA

Upon the verified complaint of any person or
of any corporation, private or municipal, that any tariff of rates,
fares or charges or any part thereof or of any classification is
949 unequal or unreasonable, commission shall proceed to investigate
the matters alleged in such complaint, and for the purposes of
such investigation it may require the attendance of witnesses
and the production of books, papers and documents. *Rev. Laws
1905, sec. 1969.*

If upon the hearing such tariff of rates, fares or charges or
any part thereof or of such classification is found to be unequal
950 or unreasonable, commission shall make an order stating wherein
the same are unequal or unreasonable and shall make a tariff of
rates, fares, charges and classification which shall be substituted
for the tariff so complained of. *Same.*

Commission shall also on its own motion investigate any
matter relating to the management by any carrier or warehouse-
951 man of its business or the reasonableness of any or all rates,
fares, charges, rules, regulations or classifications whenever in its
judgment public interest requires it. *Same, sec. 1970.*

If any such rates, schedule of rates, fares, charges, rules,
classification or regulations are found unreasonable or discrim-
inatory, commission shall find what is reasonable under the cir-
cumstances and may make an entire new schedule and adjust-

ment of any or all rates, schedule of rates, fares, charges, rules,
982 regulations or classifications under consideration in such investigation, and its order shall fix the date when such rates, schedule of rates, fares, charges, rules, regulations and classifications shall go into effect. Before making any order under the provisions of this section the carrier shall have an opportunity to be heard upon such notice as commission shall deem reasonable. *Same.*

The schedules of rates and charges for the transportation of freight and cars, together with the classification of such freights, minimum weights and rules now in effect, and all rates, charges
983 and classifications published by any common carrier after the passage of this act shall be deemed just and reasonable, and shall not be changed except upon the order of or by the written consent of commission.¹ The terms of this act shall also apply to all schedules of rates and charges published by two or more common carriers jointly. *Laws 1905, ch. 176, sec. 3.*

Any common carrier desiring to change or discontinue any published rate, charge or classification, minimum weight or rule governing the same to which it is a party, shall make application to the commission in writing, stating the changes in rules, rates, charges or classifications desired, giving the reasons for such change. Upon receiving such application the commission shall
984 fix a time and place for hearing, and give such notice to interested parties as it shall deem proper and reasonable, and after hearing all the evidence offered, if the commission find that it is reasonable, fair and just to both shippers and carriers that the change should be allowed as asked for, it shall grant the application; otherwise it shall deny the same, or may grant the same in a modified form. Passenger rates are not affected by this act. *Same, sec. 5.*

Any common carrier violating any of the provisions of sections 2, 3 and 5 of this act shall be subject to a penalty of \$100
985 for each and every day such violation shall continue, to be recovered in a civil action in the name of the state by the attorney general. *Same, sec. 7.*

Whenever, in a proceeding regularly pending before commission, it shall be made to appear to the satisfaction of commission that the rates herein prescribed are unreasonable, it may by

¹ All common carriers shall have the right in the first instance to prescribe and publish, as required by law, all classifications and tariffs, rates and charges, together with rules governing the same, including minimum weights for the transportation of any freight articles between points or stations in the state; this act shall include all terminal and switching charges. There shall be but one classification, which shall be uniform on all the railroads in the state and shall govern in all state commerce. *Laws 1905, ch. 176, sec. 1.*

order fix higher or lower rates for the transportation of any of the commodities herein mentioned over the line of any railroad in the state, and such rates, when so fixed, shall supersede the rates
956 herein prescribed upon said line of railroad, and shall be enforced as prescribed by the law relating to such orders, but until such order shall have been made by commission the rates herein prescribed shall be the exclusive legal maximum rates for the transportation of the commodities herein enumerated between points within the state. *Laws 1909, ch. 136, sec. 5.*¹

Every railroad company transacting the business of a common carrier within the state shall adopt and publish and put into effect rates not exceeding the charges specified herein for the transportation by it between stations upon its line of road in the state of the commodities named in this act; and every
957 officer, director, traffic manager or agent or employe of such railroad company, exercising any authority or being charged with any duty in establishing freight rates for such railroad company, shall cause the adoption, publication and use by such railroad company of rates not exceeding those specified in this act. *Same, sec. 6.*¹

If, at the time of the taking effect of this act, any railroad is maintaining a rate between any two stations in this state that
958 is less than the rate prescribed for the same distance, this act shall not be construed as authorizing the raising of such rate. *Same, sec. 7.*¹

In any proceedings pending before commission involving the reasonableness of express rates, where commission deem it necessary to inquire into the reasonableness of the charges of the railroad company for carrying the cars or the business of said express company over its lines of road, commission may cite such
959 railroad company to appear and become a party to such proceeding within five days after the service of such citation, and in such proceedings commission may find the reasonableness of the amount paid by the express company to the railroad company for the service furnished, and the findings of commission shall be prima facie evidence of the facts found. *Laws 1911, ch. 86, sec. 1.*

MISSISSIPPI

Commission shall docket, hear and determine all complaints made of any time schedule or of the tariff of rates joint or several made by any railroad, or fixed or approved by commission on the ground that the same in any respect is in the

Maximum freight rate law of 1909.

case of time schedules unnecessary, inconvenient for the public or in the case of a tariff of rates that the charges are for more than just compensation or that such charges or any of them amount to or operate so as to effect unjust discrimination. The complaint must be in writing and specify the grounds of complaint or the items in the tariff against which complaint is made; and if it appear to commission that the matter ought to be investigated
960 commission shall forthwith furnish to the railroad a copy of the complaint together with notice of the time and place of hearing; and at the time and place named commission shall hear the parties to the controversy in person or by counsel or both, and such evidence as may be offered, oral or in writing, and may examine witnesses on oath, conforming the mode of proceedings, as nearly as may be convenient, to that pursued by arbitrators, giving such time and latitude to each side, and regulating the opening and closing of any argument as commission may consider best adapted to arrive at the truth; and when the hearing is concluded commission shall give notice of any change deemed proper by it to be made to the railroad and require compliance with its order. *Code 1906, sec. 4849.*

MISSOURI

When complaint is made in writing, by any person having an interest in the matter about which complaint is made, that any rate or rates established by any common carrier
961 are unreasonable, unjust or extortionate or that any of the provisions of sections 3179 to 3207 have been or are being violated commission shall proceed at once to investigate such complaint and determine the truth of the same. *Rev. Stats. 1909, sec. 3194.*

And for that purpose commission may summon witnesses and require the production of any necessary books, papers or written documents in possession of the common carrier complained
962 of, and to this end written or printed communications, signed by any one of commissioners and attested by the secretary of such commission, under seal and sent by registered letter through the mail or delivered personally to the person addressed, shall be deemed a sufficient service. *Same.*

Witnesses so summoned by commission shall be entitled to the same fees as are allowed in circuit courts in civil cases. *Same.*
963

In case of the failure or refusal of any person or persons so summoned to attend and testify at the time and place specified in said summons, or to produce any designated books, papers or documents required or called for, as provided in this section, such person or persons failing shall be deemed guilty of contempt, and

964 commission may impose such penalties as the circuit court of the state may impose for like offenses; and if any common carrier, or any officer, agent or servant thereof, shall wilfully or knowingly obstruct or prevent commission from making such investigations as are authorized by said sections, they shall be deemed guilty of a misdemeanor and on conviction thereof, may be punished by fine not exceeding \$500. *Same.*

For the purpose of conducting such examination, commissioners, or any of them, may administer oaths or affirmations, and they shall prescribe such rules and regulations for the conduct of such investigation as they may deem best to enable them to arrive at the facts, but in every case a full and fair hearing shall be accorded to all parties having an interest in such case. *Same.*

Commission may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. *Same.*

When the complaint specified in section 3194 shall allege that unreasonable charges are made by any such common carrier or carriers for the transportation of any freight thereby, or that the rates specified upon the schedule or schedules of rates made by such common carrier or carriers, in obedience to the provisions of said sections, are unjust, unreasonable or extortionate, commission shall, if in its opinion the facts alleged present a just cause of complaint, and if upon hearing there appears to commission to be reasonable grounds for believing that the facts so alleged are true, and if in the opinion of commission the public good will be promoted by an examination thereof, give notice in writing to the common carrier or carriers against which such complaint shall have been made of the fact and nature thereof, and shall specify in such notice the charges by it made, and the rates specified upon its schedules which are alleged to be unjust, unreasonable or extortionate. Such notice shall be attested by the secretary of commission, under the seal thereof, and shall be served upon such common carrier or carriers against which such complaint is made, by delivering a copy thereof at the general office of such common carrier or carriers, to any person in charge thereof, or to any agent thereof at any depot or station thereof, or on which such common carrier or carriers operate, by any messenger appointed by commission who would be a competent witness in a suit at law in the state, or by any officer

authorized to serve process, or by sending the same by registered letter to such common carrier or carriers at such general office, or to any such agent having charge of such depot or station as aforesaid. *Same, sec. 3198.*

968 If such common carrier or carriers shall not within ten days after the service of such notice change or modify such charges or rates specified in such notice in a manner and to an extent satisfactory to commission, then commission may proceed to examine and investigate the matters alleged in said complaint and for that purpose may give notice to the parties making and against whom is made such complaint—said notice to be served as provided for the service of notices as aforesaid, wherein it shall require such common carrier or carriers to show cause before commission at any place within the state in said notice specified and upon a date not less than ten days after the service thereof, why said charges or rates should not be modified or changed. *Same, sec. 3199.*

969 Commission may of its own volition and shall upon the sworn complaint of any shipper, mayor, councilman, alderman or trustee of any city, town or village, first giving five days' written notice to the railroad company affected or complained against, proceed to fix, establish, modify or reduce the freight rates or charges of any such road from, to or between any and all points or stations in the state; and any and all orders fixing, establishing, modifying or reducing any such freight rates or charges shall be the judgment of commission and constitute the legal rates or charges such railroad company may collect for the transportation of freight from, to or between its stations in the state; and commission shall immediately upon the fixing, establishing, modifying or reducing of freight rates or charges of any railroad company, notify such railroad in writing thereof; and said railroad shall comply with the orders and judgments of commission with reference to such freight rates or charges within ten days after such notice. *Same, sec. 3251.*

970 And if any railroad fails or refuses or neglects to put the rates so ordered by commission into effect and operation within ten days after notice, commission shall submit a certified copy of its order to the attorney general of the state with notice that such railroad (designating the same) has failed to comply therewith. And the attorney general upon the receipt thereof shall immediately institute suit in the name of commission against such railroad in the supreme court of the state by mandamus or other proper remedy to enforce said order of commission. *Same.*

Any individual, company or corporation owning, operating, managing or leasing any railroad or part of any railroad in the state shall be bound by the decision of commission with reference to the rates fixed by commission, and every violation by any individual, company or corporation charging a greater or higher rate shall be deemed a misdemeanor and on conviction thereof shall forfeit and pay a fine of not less than \$20 nor more than \$200 for each and every offense; and the injured party shall have a right of action against said individual, company or corporation before any court of competent jurisdiction in the state; and he shall be entitled to recover three times the amount taken or demanded in excess of the rates prescribed by this article or by commission acting under the provisions of this article; but nothing herein contained shall be so construed as in any manner to abridge or control or in any way authorize commission to abridge or control or regulate the rates for freight or passengers charged by any railroad company in the state for carrying any freight or passengers which come from beyond the limits of the state, and to be carried through or across the state, but the said railroad and transportation companies shall possess the same power and right to charge such rates for carrying such through freight and passengers as they possessed before the passage of this article. *Same, sec. 3260.*

NEBRASKA

Commission may hear and determine whether or not the freight rate on any article or articles in the schedule or classification of rates is either so high as to be unjust to shippers or so low as to be unremunerative or unjust to any common carrier affected thereby; and upon complaint in writing of any person or corporation affected thereby particularly specifying the article or articles upon which such rates are either too high or too low and the facts in connection therewith, commission shall set such cause for hearing and upon a trial thereon and a full hearing after notice thereof shall either raise or lower the rate fixed by law upon such article or articles to the end that the same shall be just and reasonable to all parties concerned. *Cobbey's Annot. Stats. 1909, sec. 10616.*

When any railway company, common carrier or any person in his own behalf or in behalf of any class of persons similarly situated or any firm, corporation or association or any mercantile, agricultural or manufacturing society or any body politic or municipal organization shall make complaint to commission that any rate or rates fixed by commission in original schedule

or in any subsequent revised or modified schedule, or the rate charged or published by any railroad company is unreasonably high or low, unjust or discriminating, commission shall immediately fix a day for hearing the same and shall cause notice thereof containing the substance of the complaint to be served upon the railroad company, common carrier or other person or persons hereinbefore named, complaining, and the railway company or common carrier complained of, and the day and date upon which said hearing will be had upon said complaint; provided, that said commission may proceed upon its own motion to have a hearing with reference to revising, modifying or annulling any or all rates in any schedule or schedules prepared by them by notifying all persons interested therein or affected thereby as hereinbefore provided. *Same, sec. 10653(a).*

Upon the hearing commission shall receive any evidence and listen to any arguments offered or presented by either party relevant to the matter under investigation and the burden of proof shall be upon the railroad, person or persons hereinbefore set forth making the complaint. The lowest rates published or charged by any railway company for substantially the same kind of service whether in this or another state shall when introduced in evidence be accepted as prima facie evidence of a reasonable rate for the services under investigation, and if the railway company or common carrier making complaint or the railway company complained of by the person or persons hereinbefore named operate a line of railroad beyond the state, or has a traffic arrangement with any other railroad company, the same shall be taken into consideration in determining what is a reasonable rate; if it be operating a line of railroad beyond the state the rates charged or established for substantially the same or greater service by it in another state may also be considered. *Same, sec. 10653(b).*

After such hearing and investigation commission shall render a decision in the premises which said decision shall affirm, revise, annul or modify any or all rates complained of in said original schedule or any subsequent schedule which may be the subject of investigation, and all rates between points in the state and whatever part of the line of railway of such company or common carrier within the state as may have been fairly within the scope of such investigation; and commission shall render its decision in writing and shall spread the same at length upon the record to be kept for that purpose. *Same, sec. 10653(c).*

Commission shall immediately notify all persons affected thereby of the substance of its decision affirming, annulling, revising or modifying the rate or rates complained of and shall specifically set forth any rate or rates that have been annulled, and
976 any rate or rates that have been revised or modified in schedule form, and the schedule of any and all rates so modified or revised on said hearing shall be in force and effect 30 days after said decision was mailed to the railroad company, common carrier, person or persons or corporations affected thereby. *Same, sec. 10653(d).*

See also par. 3690.

NEVADA Provisions for railroads substantially identical
977 with pars. 888, 889, 890, 891. *Stats. 1907, ch. 44, secs. 12, 12(a).*

978 Also provisions for railroads substantially identical with pars. 945, 894. *Same, secs. 12(b), 12(c).*

Also a provision identical with par. 947, except that "section 22" reads "section 12." *Same, sec. 13(c), as amended by*
979 *Stats. 1909, ch. 121, sec. 6.*

Whenever upon investigation made under the provisions of this act commission shall find any existing rate or rates, fares, charges or classification or any joint rate or rates, fares or any regulation or practice whatsoever affecting the transportation of persons or property, or any service in connection therewith, are unreasonable or unjustly discriminatory, or any service is inadequate, it shall determine and by order fix a reasonable rate, fare, charge, classification or joint rate to be imposed, observed and
980 followed in the future in lieu of that found to be unreasonable or unjustly discriminatory, and it shall determine and by order fix a reasonable regulation, practice or service to be imposed, observed or followed in the future, in lieu of that found to be unreasonable or unjustly discriminatory or inadequate as the case may be, and it shall cause a certified copy of each of such orders to be delivered to an officer or station agent of the railroad affected thereby, which order shall of its own force take effect and become operative 30 days after the service thereof. *Same, sec. 14, as amended by Stats. 1909, ch. 121, sec. 7.*

All railroads to which the order applies shall make such changes in their schedule on file as may be necessary to make the
981 same conform to such order, and no change shall thereafter be made by any railroad in any such rates, fares or charges or in any joint rate or rates without the approval of commission. *Same.*

982 Also a provision for railroads identical with par. 897. *Same.*

NEW HAMPSHIRE Upon complaint made by the city council or city councils of any city, or by the mayor of any city, or by the selectmen of any town in which a public utility is authorized to manufacture, sell or supply gas or electricity for heat, light or power, or to supply water, or to transmit telephone or telegraph messages, or upon the complaint in writing of not less than 100 customers or subscribers of such public utility in cities of 30,000 or more inhabitants, or of not less than 50 in cities of 20,000 or more inhabitants, or of not less than 25 in any other city or town, or upon petition of a public utility supplying said gas, 983 electricity or water, or transmitting such messages as to the quality of the service furnished by such public utility, or the charges made therefor, or that such charges are insufficient, commission shall investigate as to the cause for such complaint. It may personally or by its experts inspect the works, system, plant, devices, appliances, and methods used by such public utility in manufacturing and supplying such gas, electricity or water, or transmitting such messages, and may examine or cause to be examined the books and papers of such public utility pertaining to the service complained of. *Laws 1911, ch. 164, sec. 10(c).*

Whenever commission shall be of opinion after a hearing had upon its own motion or upon a complaint that the rates, fares or charges demanded or collected, or proposed to be demanded or collected, by any railroad corporation for the transportation of persons or property within the state are unjust or unreasonable, or that the regulation or practice of such railroad corporation affecting such rates are unjust or unreasonable, or in anywise in violation of any provision of law, or that the maximum rates, fares or charges chargeable by any such railroad corporation are insufficient, commission shall determine the just 984 and reasonable rates, fares and charges to be thereafter observed, and enforced as the maximum to be charged for the service to be performed, and shall fix the same by order to be served upon all railroad corporations by which such rates, fares and charges are thereafter to be observed; provided, however, that when any railroad corporation shall seek the benefit of any order of commission allowing said railroad corporation to charge and collect rates higher than charged at the time said order is asked for, the burden of proving the necessity of the increase shall be upon said railroad corporation, and provided further, that commission shall not allow an increase above any rate prescribed or limited by statute. *Same, sec. 11(a).*

Whenever commission shall be of the opinion after a hearing had on its own motion or upon complaint that any public utility is demanding or collecting or proposes to demand or collect charges unjustly or unreasonably high, or upon petition that the charges are insufficient, commission shall determine the just and reasonable charges and may by order fix the maximum price to be charged; provided, however, that when any public utility shall seek the benefit of an order of commission allowing said public utility to demand and collect charges higher than have been before charged, or than have been before allowed by order of commission, the burden of proving the necessity of the increase shall be upon said public utility. *Same, sec. 11(c).*

NEW JERSEY Commission may after hearing, upon notice, by order in writing fix just and reasonable individual rates, joint rates, tolls, charges or schedules thereof, as well as commutation, mileage, and other special rates which shall be imposed, observed and followed thereafter by any public utility, whenever commission shall determine any existing individual rate, joint rate, toll, charge or schedule thereof for commutation, mileage or other special rate to be unjust, unreasonable, insufficient or unjustly discriminatory or preferential. *Laws 1911, ch. 195, sec. 16(c).*

NEW MEXICO *See par. 1354.*

NEW YORK Whenever either commission shall be of opinion after a hearing had upon its own motion or upon a complaint that the rates or fares or charges demanded, exacted, charged or collected by any common carrier, railroad or street railroad corporation for the transportation of persons or property within the state, or that the regulations or practices of such common carrier, railroad or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of any provision of law, or that the maximum rates, fares, or charges chargeable by any such carrier, railroad, or street railroad corporation are insufficient to yield reasonable compensation for the service rendered and are unjust and unreasonable, commission shall determine the just and reasonable rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for the service to be performed notwithstanding that a higher rate, fare or charge has been heretofore authorized by statute, and shall fix the same by order to be served upon all common carriers, railroad or street

railroad corporations, by whom such rates, fares and charges are thereafter to be observed. *Laws 1910, ch. 480, sec. 49(1).*

Whenever either commission shall be of the opinion after a hearing had upon its own motion or upon a complaint that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad or street railroad corporation for excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under six years of age, or any other form of reduced rate ticket for the transportation of persons within the state, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 miles or more within the state, or that the regulations or practices of such common carrier, railroad or street railroad corporation, affecting such rates are unjust, unreasonable, unjustly discriminatory, or unduly preferential or anywise in violation of any provision of law, or that the maximum rates, fares or charges collected or charged for any of such forms of reduced fare passenger transportation tickets by any such common carrier, railroad or street railroad corporation, are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, and whenever commission shall be of opinion after a hearing had upon its own motion or upon a complaint and upon investigation that the sale of any form or forms of reduced fare passenger ticket heretofore sold or used upon any railroad or street railroad within the state, the use or
sale of which ticket or tickets has been discontinued within five years prior to the time this act takes effect, will be just and reasonable and not in violation of any provision of this act or other provision of law, commission shall determine the just and reasonable rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for such mileage, excursion, school or family commutation, commutation, half fare, or any other form of reduced rate tickets for the transportation of persons, or joint interchangeable mileage tickets with special privileges, as aforesaid, and shall order the sale and use thereof to be restored of any of the kinds of tickets herein specified, or any other form of reduced rate ticket for the transportation of persons within the state, upon any railroad or street railroad within the state, upon which railroad or street railroad any such form of ticket or tickets for the transportation of persons within the state, have, within five years prior to the time this act takes effect, been sold or used, and shall determine and pre-

scribe the reasonable and just rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for any of such form of ticket or tickets for the transportation of persons within the state, all of which acts fixing such rates, fares and charges or requiring the restoration of sale and use of any of such forms of ticket or tickets, shall be by order to be served upon all common carriers, railroad corporations, street railroad corporations by whom such rates, fares and charges or restoration of, sale or use of, such ticket or tickets are thereafter to be observed. *Same.*

999 Whenever commission shall be of opinion after a hearing had upon its own motion or upon complaint that the rates or charges or the acts or regulations of any gas or electrical corporation are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of any provision of law, commission shall determine and prescribe the just and reasonable rates and charges thereafter to be enforced for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed. *Same, sec. 66(5).*

Upon the complaint in writing of the mayor of a city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply gas or electricity for heat, light or power, or upon complaint in writing of not less than 100 customers or purchasers of such gas or electricity in cities of the first or second class, or of not less than 50 in cities of the third class, or of not less than 25 elsewhere, or upon complaint of the gas and electrical corporation supplying said gas or electricity as to the illuminating power, purity, pressure or price of gas the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat, or power, or price of electricity sold and delivered in such
990 municipality, the proper commission shall investigate as to the cause of such complaint. When such complaint is made, commission may by its agents, examiners and inspectors inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints

made as provided in this section shall be prescribed by commission. Such complaints shall be signed by the officers or by the customers, purchasers or subscribers making them, but must add to their signatures their places of residence, by street and number, if any. *Same, sec. 71.*

991 Also a provision identical with par. 926, except that "as provided in this act" reads "as provided in section 71." *Same sec. 72.*

992 An investigation may be instituted by commission as to any matter of which complaint may be made as provided in section 71 of this chapter, or to enable it to ascertain the facts requisite to the exercising of any power conferred upon it. *Same.*

993 After a hearing and after such investigation as shall have been made by commission or its officers, agents, examiners or inspectors, commission within lawful limits may by order fix the maximum price of gas or electricity not exceeding that fixed by statute to be charged by such corporation or person for the service to be furnished, and may order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the methods employed by such person or corporation as will in its judgment be adequate, just and reasonable. *Same.*

994 A provision substantially identical with par. 929. *Same, sec. 75.*

995 Whenever commission shall be of opinion after a hearing had upon its own motion or upon complaint that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telegraph or telephone corporation for the transmission of messages or communications by telegraph or telephone, or for the rental or use of any telegraph lines, telephone lines or any telegraph instrument, wire, appliances, apparatus or device or any telephone receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device or any telephone extension or extension system, or that the rules, regulations or practices of any telegraph or telephone corporation affecting such rates, charges, rentals or service are unjust, unreasonable or unjustly discriminatory or unduly preferential, or in anywise in violation of law, or that the maximum rates, charges or rentals, chargeable by any such telegraph or telephone corporation are insufficient to yield reasonable compensation for service rendered, commission shall determine the just and reasonable rates, charges and rentals to be thereafter observed and in force as the maxi-

num to be charged, demanded, exacted or collected for the performance or rendering of the service specified, and shall fix the same by order to be served upon all telegraph and telephone corporations by which such rates, charges and rentals are thereafter to be observed, and thereafter no increase in any rate, charge or rental so fixed shall be made without the consent of commission. *Same, sec. 97(1).*

NORTH DAKOTA In all cases where complaint shall be made in accordance with provisions of this article that an unreasonable charge is made commission shall require a modified charge for the service rendered such as it shall deem to be reasonable, and all cases of failure to comply with the recommendation of commission shall be embodied in the report of commission to the governor; and the same shall apply to any unjust discrimination, extortion or overcharge by railroad, railroad corporation or common carrier or other violations of law. *Rev. Codes 1905, sec. 4328.*

Commission shall, upon the complaint and the application of the mayor and aldermen of any city or the president or trustee of any incorporated town, or the supervisors of any township, make an examination of the rate of passenger fare, express or freight tariff charged by any railroad, railroad corporation or common carrier, and of the condition or operation of any railroad or railroad corporation, or common carrier, any part of whose location or route lies within the limits of such city, town or township, or if 25 or more legal voters in any city, town or township shall by petition in writing request the mayor and aldermen of such city, president and trustee of such town, or the supervisors of such township, to make said complaint and application, and if the said mayor and aldermen, president and trustee or supervisors refuse or decline to comply with the prayer of the petition they shall state the reason for such non-compliance in writing upon the petition and return the same to the petitioners, and the petitioners may thereupon within ten days from such refusal and return present such petition to commission and commission shall if upon due inquiry and hearing of the petitioners it thinks the public good demands the examination, proceed to make it in the same manner as if called upon by the mayor and aldermen of any city, the president and trustee of any town, or the supervisors of any township. Before proceeding to make such examination, in accordance with such application or petition, commission shall give to the petitioners and railroad, railroad corporation or common carrier, reasonable notice in writing

of the time and place of entering upon the same. If, upon such examination, it shall appear to commission that the complaint alleged by the applicant or petitioners is well founded it shall so adjudge and shall inform the corporation operating such railroad, railroad corporation or common carrier of its adjudication within ten days and shall also report its doings to the governor as provided in section 4363. *Same, sec. 4329.*

998 Whenever any person upon his own behalf or class of persons similarly situated, or any firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic, or municipal organization shall make complaint to commission that the rate charged or published by any railroad, railroad corporation or common carrier, or the maximum rate fixed by commission in the schedule of fares or rates made by it under the provisions of section 4343, or the maximum rate that may now or may heretofore be fixed is unreasonably high or discriminating, commission shall immediately investigate the matter of such complaint. If such complaint appears to be well founded and not trivial in character, commission shall fix a day for hearing the same, and shall notify such railroad, railroad corporation or common carrier of the time and place of such hearing by serving a notice properly directed on any division superintendent, general or assistant superintendent, general manager, president, secretary or agent of such railroad, railroad corporation or common carrier, which notice shall contain the substance of the complaint so made, and commission shall also notify the person or persons complaining of such time and place. *Same, sec. 4344.*

Upon hearing provided for commission shall receive whatever evidence, statements or arguments either party may offer pertinent to the matter under investigation; and the burden of proof shall not be held to be upon the person or persons making the complaint, but commission shall add to the showing made at such hearing whatever information it may then have, or can secure from any source whatsoever, and the person or persons complaining shall be entitled to introduce any published schedule of rates of any railroad, railroad corporation or common carrier or evidence of rates actually charged by any railroad, railroad corporation or common carrier for substantially the same kind of service, whether in this or in any other state, and the lowest rate published or charged by any railroad, railroad corporation or common carrier for substantially the same kind of service,

whether in this state or in any other state, shall, at the instance of the person or persons complaining, be accepted as prima facie evidence of a reasonable rate for the services under investigation, and if the railroad, railroad corporation or common carrier complained of is operating a line of railroad beyond the state, or if it appears that it has a traffic arrangement with any such railroad, railroad corporation or common carrier, then commission in determining what is a reasonable rate, shall take into consideration the charge made or rate established by said railroad, railroad corporation or common carrier, or the company with which it has traffic arrangements for carrying freight, passengers or property from beyond the state to points within the state and from within the state to points beyond the state; and if such company be operating a line of railway beyond the state it shall also take into consideration the rate charged or established for a substantially similar or greater service by such company in any other state in which said railroad, railroad corporation or common carrier operates a line of railway. *Same, sec. 4345.*

Also a provision for railroads, railroad corporations and common carriers substantially identical with par. 911, except that "which charge shall in no event exceed the one now or hereafter fixed by law" is omitted. *Same, sec. 4346.*

See also par. 2596.

OHIO Provisions for railroads substantially identical with pars. 888, 889, 891, 894. *Code 1910, secs. 524, 525, 526.*

Also provisions substantially identical with pars. 980, 981. *Same, secs. 535, 536.*

Upon complaint in writing against any public utility by any person, firm or corporation, or upon the initiative or complaint of commission, that any rate, fare, charge, toll, rental, schedule, classification or service, or any joint rate, fare, charge, toll, rental, schedule, classification or service rendered, charged, demanded, exacted or proposed to be rendered, charged, demanded, or exacted, is in any respect unjust, unreasonable, unjustly discriminatory, or unjustly preferential or in violation of law or that any regulation, measurement or practice affecting or relating to any service furnished by said public utility, or in connection therewith, is, or will be, in any respect unreasonable, unjust, insufficient or unjustly discriminatory or unjustly preferential, or that any service is, or will be, inadequate or cannot be obtained, commission shall notify the public utility complained of

that complaint has been made, and of the time and place where the same will be considered and determined, which notice shall be served upon the public utility not less than 15 days before such hearing and shall plainly state the matters or things complained of. Commission shall, if it appear that there are reasonable grounds for the complaint, at such time and place proceed to consider such complaint and may adjourn the hearing thereof from time to time. The parties thereto shall be entitled to be heard, represented by counsel and to have process to enforce the attendance of witnesses. *Laws 1911, no. 325, sec. 23.*

1004 A public utility may make complaint as to any matter affecting its own product or service with like effect as though made by a person, firm or corporation, in which event commission shall publish notice thereof for ten days prior to such hearing in a newspaper of general circulation at the situs of such public utility. *Same.*

1006 When complaint is made of more than one rate, charge or service, commission may order separate hearings thereon and may consider and determine the matters complained of separately and at such times and places as it may prescribe. No complaint shall necessarily be dismissed because of the absence of direct damage to the complainant. *Same, sec. 24.*

1006 Whenever commission shall be of the opinion after a hearing that any rate, fare, charge, toll, rental, schedule, classification or service or any joint rate, fare, charge, toll, rental, schedule, classification or service rendered, charged, demanded, exacted or proposed to be rendered, charged, demanded or exacted, is or will be unjust, unreasonable, unjustly discriminatory, or unjustly preferential, or in violation of law, or the service inadequate, or that the maximum rates, charges, tolls, or rentals chargeable by any such public utility are insufficient to yield reasonable compensation for the service rendered and are unjust and unreasonable, commission shall fix and determine the just and reasonable rate, fare, charge, toll, rental or service to be thereafter rendered, charged, demanded, exacted or collected for the performance or rendition of the service, and order the same substituted therefor. *Same, sec. 25.*

1007 No change in the rate, fare, toll, charge, rental, schedule, classification or service shall be made, rendered, charged, demanded, exacted or changed by any public utility without the order of commission, and any other rate, fare, toll, charge, rental,

classification or service shall be deemed and held to be unjust and unreasonable, prohibited and unlawful. *Same.*

If commission after investigating shall find that any rate, joint rate, fare, charge, toll, rental, schedule or classification of service is unjust, unreasonable and insufficient or unjustly discriminatory or in violation of law or otherwise in violation of any provisions of this act or that any service is inadequate or cannot be obtained the public utility found to be at fault shall pay the expenses incurred by commission upon such investigation. *Same, sec. 82.*

See also par. 3187.

OREGON Provisions for railroads substantially identical with pars. 888, 889, 890, 891, 892. *Gen. Laws 1907, ch. 53, sec. 28.*

Notice may likewise be given to other parties in interest, and shall be given at least ten days in advance of any hearing, and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint was filed with commission relative to the matter investigated, pursuant to the provisions of this section, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint. *Same.*

Also provisions for railroads identical with pars. 894, 947, except that "section 22" reads "section 28." *Same, secs. 28, 29.*

Also provisions identical with pars. 980, 981, 897, except that orders of commission shall take effect and become operative 20 days instead of 30 days after service thereof. *Same, sec. 30.*

Upon a complaint made against any public utility by any mercantile, agricultural or manufacturing society, or by any body politic or municipal organization, or by any three persons, firms, corporations or associations, that any or all of the rates, tolls, charges or schedules or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act whatsoever affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of any telegraph or telephone message, or the transportation of persons or property by street railroad, or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service rendered by any public utility is inadequate or is not afforded, commission shall proceed, with or without notice, to make such investigation as it may deem necessary or con-

venient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act complained of shall be entered by commission without a formal hearing. *Gen. Laws 1911, ch. 279, sec. 41.*

Commission shall, prior to such formal hearing, notify the public utility complained of that complaint has been made, and
1014 to answer the same, and at the same time, or afterward, may proceed to set a time and place for a hearing and an investigation as hereinafter provided. *Same, sec. 42.*

Commission shall give the public utility and the complainant, if any, ten days' notice of the time and place when and where such hearing and investigation will be held and such matters consid-
1015 ered and determined. Both the public utility and complainant shall be entitled to be heard, and shall have process to enforce the attendance of witnesses. *Same.*

If, upon such investigation, any rates, tolls, charges, schedules or joint rates, shall be found to be unjust, unreasonable, insufficient or unjustly discriminatory, or to be preferential or
1016 otherwise in violation of any of the provisions of this act, commission may fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable. *Same, sec. 43.*

If upon such investigation it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of any of the provisions of this act, or if it be found that any service is unsafe or inadequate, or
1017 that any reasonable service cannot be obtained or is not afforded, commission may substitute therefor such other regulations, measurements, practices, service or acts and make such order respecting, and such changes in such regulations, measurements, practices, service or acts as shall be just and reasonable. *Same.*

Commission may, in its discretion, when a complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained
1018 of separately, and at such times as it may prescribe. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. *Same, sec. 44.*

Whenever commission shall believe that any rate or charge or schedule of rates or charges may be unreasonable or unjustly discriminatory, or that any service is unsafe or inadequate or is not afforded or that an investigation of any matter relating to any pub-

lic utility should for any reason be made, it may, on its own motion, summarily investigate the same with or without notice. If, after making such investigation, commission becomes satisfied that sufficient grounds exist to warrant a hearing being ordered to determine whether any rate or charge or schedule of rates or charges so investigated is unreasonable or unjustly discriminatory, or whether the service investigated is unsafe or inadequate or is
1019 not afforded, or that an investigation of any other matter relating to such public utilities should be made, it shall furnish such public utility interested a statement, notifying the public utility of the matters under investigation, which said statement shall be accompanied by a notice fixing a time and place for hearing upon such matters. Notice may likewise be given to other parties interested. Such notice of hearing shall be given at least ten days in advance of any hearing. Thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative to the matter investigated, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint. *Same, sec. 45.*

Any public utility may make complaint as to any matter affecting its own product or service with like effect as though
1020 made by any mercantile, agricultural, or manufacturing society, body politic or municipal organization or by any ten persons, firms, corporations or associations. *Same, sec. 46.*

Whenever, upon an investigation made under the provisions of this act, commission shall find any existing rate or rates, or any schedule of rates, tolls, charges, joint rate or joint rates to be unjust, unreasonable, insufficient or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions
1021 of this act, commission shall determine and by order fix reasonable rate or rates, schedule of rates, tolls, charges or joint rates to be imposed, observed and followed in the future in lieu of those found to be unjust, unreasonable, insufficient or unjustly discriminatory, or preferential or otherwise in violation of any of the provisions of this act. *Same, sec. 51.*

Whenever, upon an investigation made under the provisions of this act, commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this act; or shall find that any service is unsafe or inadequate or that any service which can be reasona-

bly demanded is not afforded, commission shall determine and
1023 declare and by order fix reasonable measurements, regulations,
acts, practices or service to be furnished, imposed, observed and
followed in the future in lieu of those found to be unjust, un-
reasonable, insufficient, preferential, unjustly discriminatory, un-
safe, inadequate, or otherwise in violation of this act, as the case
may be, and shall make such other order respecting such measure-
ment, regulation, act practice or service as shall be just and
reasonable. *Same.*

Commission shall cause a certified copy of all such orders
to be delivered to an officer or agent of the public utility affected
1023 thereby, and all such orders shall of their own force take effect
and become operative 20 days after service thereof, unless a dif-
ferent time be provided by said order. *Same.*

Commission may provide by rule that any public utility
affected by any order shall within a time to be fixed by commis-
1024 sion, notify commission whether the terms of the order are ac-
cepted and will be obeyed. *Same.*

See also pars. 1323, 1325.

RHODE ISLAND Upon a written complaint made against any
public utility by any city or town council or by any corporation
or by 25 qualified electors that any of the rates, tolls, charges
or any joint rate or rates of any public utility are in any respect
unreasonable or unjustly discriminatory or that any regulation,
measurement, practice or act whatsoever of any public utility
affecting or relating to the conveyance of persons or property
or any service in connection therewith or affecting or relating
to the production, transmission, delivery or furnishing of heat,
light, water or power, or any service in connection therewith, or
the conveyance of any telephone or telegraph message, or any
service in connection therewith, is in any respect unreasonable,
1025 insufficient or unjustly discriminatory or that any service is
inadequate or cannot be obtained or is unsafe or that the public
safety is endangered thereby, commission shall proceed with
or without notice to make such investigation as it may deem
necessary or convenient. But no order affecting said rates, tolls,
charges, regulations, measurements or practices, act or service
complained of shall be entered by commission without a formal
public hearing. When any complaint shall be made by 25 or
more qualified electors, such complaint shall designate one of the
complainants upon whom sha lbe served all notices, orders and

citations required by this act to be served upon complainants.
Acts 1912, ch. 795, sec. 18.

Commission shall prior to such formal hearing notify the public utility complained of that a complaint has been made, and
1026 ten days after such notice has been given commission may proceed to set a time and place for a hearing and an investigation as hereinafter provided. *Same, sec. 19.*

Also a provision substantially identical with par. 1015.
1027 *Same, sec. 20.*

If upon such a hearing and investigation had under the provisions of this act, commission shall find any existing rates, tolls, charges or joint rate or rates of any public utility to be
1028 unjust, unreasonable, insufficient or unjustly discriminatory or to be preferential or otherwise in violation of any of the provisions of this act, commission may fix and order substituted therefor such rates, tolls, charges or joint rates as shall be just and reasonable. *Same, sec. 21.*

If upon such a hearing and investigation it shall be found that any rate, toll, charge or joint rate or rates is unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this act or that
1029 any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential or otherwise in violation of any of the provisions of this act, or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the public utility found to be at fault shall pay the expenses incurred by commission upon such investigation either in whole or in part as commission in its discretion may determine.
Same, sec. 24.

Also a provision identical with par. 1018. *Same, sec. 25.*
1030 *See also pars. 3777, 3778.*

SOUTH CAROLINA *See par. 2457.*

SOUTH DAKOTA After the rates herein provided for have been made, readjusted and published and after they have been put in force and effect, any express company may apply to commission for an order to change and modify such schedule of rates, in which case commission shall call a hearing for the purpose of determining the justice of such rate. The testimony taken at such
1031 hearing shall be preserved in full. After any such hearing commission shall change, modify and establish a new schedule for any schedule found to be unjust, without otherwise affecting the

schedule of rates established by this act. *Sess. Laws 1909, ch. 159, sec. 5.*

Upon the application of any person interested claiming that the rates established by law are too high or that there is discrimination in the rates of any company or in the joint rates of any two or
1032 more companies, commission shall call and hold a hearing to determine the issues and in such cases shall change, modify and establish such rate as may be just for such schedule. *Same, sec. 6.*

Whenever any person upon his own behalf, or class of persons similarly situated, or any firm, corporation or association or any mercantile, agricultural or manufacturing society or body
1033 politic, commercial club or board of trade or municipal organization shall make complaint to commission that the rate or fares charged or published by any common carrier, or the maximum rates and fares fixed by commission in any schedules of rates and fares made by it is unreasonably high or discriminating, commission shall immediately investigate the matter of such complaint. *Sess. Laws 1911, ch. 207, sec. 21.*

If such complaint appears to be well founded and not trivial in character, commission shall fix a day for hearing the same and shall notify the common carriers interested of the time and place of such hearing by mailing by registered letter a notice of hearing
1034 with a copy of such complaint properly directed to any division superintendent, general or assistant superintendent, general manager, president or secretary of such company, and commission shall also notify the person or persons complaining of such time and place. *Same.*

Also a provision for common carriers substantially identical with par. 999. *Same, sec. 22.*

Also a provision for common carriers identical with par.
1036 1000, except that "and including a classification of such freight" reads "and including a classification of freight, express or messages." *Same, sec. 23.*

See also par. 2459.

VERMONT

When in the judgment of commission after investigation and hearing upon reasonable notice to all parties interested, it appears that any of the rates, tariffs or charges posted as provided in section 4533, are excessive, unjust, unreasonable or discriminatory or that the facilities and accommodations
1037 furnished by any railroad corporation are not adequate, reasonable and equal, it shall by order made in the premises determine

and prescribe what will be a just and reasonable rate, tariff or charge, or adequate, reasonable or equal facilities and accommodations, and after giving notice of such an order may fix a time within which such railroad corporation shall comply with such order. *Pub. Stats. 1906, sec. 4535.*

1028 If upon investigation the rates, tolls, charges or schedules are found unjust, unreasonable, insufficient or unjustly discriminatory or to be preferential or otherwise in violation of the provision of this act, commission may order and substitute therefor such rate or rates, tolls, charges or schedules and may make such changes in any regulations, measurements, practices or acts of any company subject to the supervision of commission, relating to its service and may make such order as will compel the furnishing of such service, as shall at said hearing be found by it to be just and reasonable. *Laws 1908, no. 116, sec. 10.*

1039 This section shall not be construed to require the same charges, tolls or rates from any company for like service in different parts of the state, but commission in determining these questions shall investigate local conditions and its final findings and judgment shall take cognizance thereof. *Same.*

See also pars. 349, 351.

WASHINGTON Whenever commission shall find, after a hearing had upon its own motion or upon complaint as herein provided, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier for the transportation of persons or property within the state or in connection therewith, or that the regulations or practice of such common carrier affecting such rates, are unjust, unreasonable, unjustly discriminatory or
1040 unduly preferential or in anywise in violation of the provisions of law, or that such rates, fares or charges are insufficient to yield a reasonable compensation for the service rendered, commission shall determine the just, reasonable or sufficient rates, fares or charges, regulations or practices to be thereafter observed and enforced and shall fix the same by order as hereinafter provided. *Laws 1911, ch. 117, sec. 53.*

Whenever commission shall find after a hearing had upon its own motion or upon complaint as herein provided, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company or water company for gas,
1041 electricity or water or in connection therewith, or that the rules, regulations, practice or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly pref-

erential or in anywise in violation of the provisions of law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, commission shall determine the just, reasonable or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided. *Same, sec. 54.*

1042 Whenever commission shall find after a hearing had upon its own motion or upon complaint that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telegraph or telephone company for the transmission of messages by telegraph or telephone or for the rental or use of any telegraph line, telephone line or any telegraph instrument, wire, appliance, apparatus or device, or any telephone receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device or any telephone extension or extension system, or that the rules, regulations or practices of any telegraph or telephone company affecting such rates, charges, tolls, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of law, or that such rates, charges, tolls or rentals are insufficient to yield reasonable compensation for the service rendered, commission shall determine the just and reasonable rates, charges, tolls or rentals to be thereafter observed and in force and fix the same by order as hereinafter provided. *Same, sec. 55.*

1043 Whenever commission shall find after a hearing had upon its own motion or upon complaint as herein provided, that the rates or charges demanded, exacted, charged or collected by any wharfinger or warehouseman for the receipt, storage or handling of freight or in connection therewith or that the rules, regulations or practices affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of the provisions of law, or that such rates and charges are insufficient to yield a reasonable compensation for the service rendered, commission shall determine the just, reasonable or sufficient rates, charges, rules, regulations or practices to be thereafter observed and in force and shall fix the same by order as hereinafter provided. *Same, sec. 56.*

1044 Whenever commission shall find after hearing had upon its own motion or upon complaint as herein provided, that any rate, toll, rental or charge which has been the subject of complaint and inquiry is sufficiently remunerative to the public service company affected thereby, it may order that such rate,

toll, rental or charge shall not be changed, altered, abrogated or discontinued nor shall there be any change in the classification which will change or alter such rate, toll, rental or charge without first obtaining the consent of commission authorizing such change to be made. *Same, sec. 84.*¹

See also par. 3704.

WISCONSIN Provisions substantially identical with pars.

888, 889, 890, 891, 892, 1010, 894, 947, 980, 981, 897, except
1045 that section 12 is referred to. *Laws 1905, ch. 362, secs. 1797-12 to 1797-12(c) (as amended by Laws 1905, sp. sess., ch. 313), 1797-13(c), 1797-14, 1797-14(b), 1797-14(c).*

Where the order made relates to service, and the same cannot, in the judgment of commission, be complied with within 20 days, commission may prescribe such additional time as in its judgment
1046 is reasonably necessary to comply with the order and may on application and for good cause shown extend the time for compliance fixed in its order. *Same, sec. 1797-14(a), as amended by Laws 1907, ch. 582.*

Upon a complaint made against any public utility by any mercantile, agricultural or manufacturing society or by any body politic or municipal organization or by any 25 persons, firms, corporations or associations that any of the rates, tolls, charges or schedules or any joint rate or rates are in any respect unreasonable or unjustly discriminatory or that any regulation, measurement, practice or act whatsoever affecting or relating to the production, transmission, delivery or furnishing of heat,
1047 light or water or power or any service in connection therewith or the conveyance of any telephone message or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, commission shall proceed with or without notice to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act complained of shall be entered by commission without a formal public hearing. *Laws 1907, ch. 499, sec. 1797m-43.*

1048 Also a provision identical with par. 1026. *Same, sec. 1797m-44.*

¹ Nothing in this act shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts, or charges or service rendered, or the safety, adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any street railroad, telephone line, gas plant, electrical plant or water system owned and operated by any city or town, but all other provisions enumerated herein shall apply to public utilities owned by any city or town. *Laws 1911, ch. 117, sec. 105.*

1040 Also provisions identical with pars. 1015, 1016. *Same, secs. 1797m-45, 1797m-46(1).*

If upon such investigation it shall be found that any rate, toll, charge, schedule or joint rate or rates is unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this act, or that any regulation, practice, act or service complained of is unjust, 1050 unreasonable, insufficient, preferential or otherwise in violation of any provision of this act, or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the public utility found to be at fault shall pay the expenses incurred by the commission upon such investigation. *Same, sec. 1797m-47.*

Also provisions identical with pars. 1018, 1020, 1021, except 1051 that "or by any ten persons" in par.1020 reads "or by any 25 persons." *Same, secs. 1797m-48, 1797m-52, 1797m-60(1).*

Whenever upon an investigation made under the provisions of this act commission shall find that any rate, toll, charge, schedule or joint rate or rates is unjust, unreasonable, insufficient or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this act, or that any measurement, regulation, practice, service or act complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or 1052 otherwise in violation of any of the provisions of this act, or if it shall find that any service is inadequate or that any service which can reasonably be demanded cannot be obtained, commission shall ascertain and declare and by order fix the expenses incurred by commission upon such investigation and shall by order direct such public utility to pay the state treasurer within 20 days thereafter such expenses so incurred. *Same, sec. 1797m-60(3).*

• Commission shall cause a certified copy of all such orders to be delivered to an officer or agent of the public utility affected 1053 thereby, and all such orders shall of their own force take effect and become operative 20 days after service thereof unless a different time be provided by said order. *Same, sec. 1797m-60(4).*

All public utilities to which the order applies shall make such changes in their schedule on file as may be necessary to make the 1054 same conform to said order, and no changes shall be made by any public utility in any such rates, tolls, or charges, or in any joint rate or rates without the approval of commission. *Same, sec. 1797m-61.*

Certified copies of all other orders of commission shall be
1066 delivered to the public utility affected thereby in like manner
and the same shall take effect within such time thereafter as com-
mission shall prescribe. *Same.*

See also pars. 1330, 1335, 3788.

D. SPECIAL AUTHORITY OF COMMISSION AND DUTY OF UTILITIES WITH RESPECT TO THE ESTABLISHMENT AND CHANGE OF JOINT OR THROUGH SERVICE AND ROUTES, AND RATES AND CHARGES THEREFOR.

1. Carriers of Persons and Goods.

UNITED STATES It shall be the duty of every carrier subject to the provisions of this act to establish through routes and just and reasonable rates applicable thereto; and to provide reasonable
1066 facilities for operating such through routes and to make reasonable rules and regulations with respect to the exchange, interchange, and return of cars used therein, and for the operation of such through routes, and providing for reasonable compensation to those entitled thereto. *Act to Regulate Commerce, sec. 1.*

Whenever the carrier or carriers in obedience to an order of commission or otherwise in respect to joint rates, fares or charges, shall fail to agree among themselves upon the apportionment or
1067 division thereof, commission may after hearing make a supplemental order prescribing the just and reasonable proportion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order. *Same, sec. 15.*

Commission may also after hearing on a complaint or on its own initiative without complaint establish through routes and joint classifications and may establish joint rates as a maximum to be charged, and may prescribe the division of such rates as
1068 hereinbefore provided and the terms and conditions under which such through routes shall be operated whenever the carriers themselves shall have refused or neglected to establish voluntarily such through routes or joint classifications or joint rates; and this provision shall apply when one of the connecting carriers is a water line. *Same.*

Commission shall not, however, establish any through route, classification or rate between street electric passenger railways not engaged in the general business of transporting freight in addition to the passenger and express business and railroads of a different character, nor shall commission have the right to establish any route, classification, rate, fare or charge when the transportation is wholly by water, and any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water. *Same.*

In establishing such through route commission shall not require any company without its consent to embrace in any such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith which lies between the termini of such proposed through route unless to do so would make such through route unreasonably long as compared with another practicable through route which could otherwise be established. *Same.*

See also par. 887.

ALABAMA

Whenever the rate or charge ordered substituted by commission shall be a joint rate or charge and the transportation company or companies affected thereby shall fail to agree upon the apportionment thereof within 20 days after the service of such order, commission may after a hearing issue a supplemental order declaring the apportionment of such joint rate or charge and the same shall take effect of its own force as part of the original order. *Code 1907, sec. 5680.*

Whenever any transportation company shall refuse or neglect to establish a joint rate or rates for the transportation of persons or property, commission may, upon notice to such transportation company or companies, and after an opportunity to be heard as provided in sections 5667 and 5668 of this code, fix and establish such joint rate or rates. *Same, sec. 5681.*

If the transportation companies parties thereto shall fail to agree upon the apportionment thereof within 20 days after the service of such orders, commission may, upon like hearing, issue a supplemental order declaring the apportionment of such joint rate or rates, and the same shall take effect of its own force as part of the original order. *Same.*

In cases relating to the fixing, regulating or prescribing of joint rates of two or more transportation companies, such trans-

portation companies may be joined in one proceeding before commission. *Same, sec. 5682.*

When a shipment of freight shall pass over the whole or part of two or more railroads, the rate to be charged shall be either a continuous mileage rate not exceeding the lawful rate or a rate for each road, not greater than its lawful maximum rate for the distance hauled over its road less ten per cent. as commission may in its judgment determine, and commission shall establish a rule or order applicable to each railroad, prescribing which railroad
1065 shall for such shipment charge the continuous mileage rate and which shall charge a rate not greater than its lawful maximum rate for the distance hauled less ten per cent., and such rule or order shall be binding on and limit the charge of each railroad to which it is applicable with respect to such shipments until changed by commission. But nothing in this section shall be construed to prohibit the joint rates being divided into such proportions as may be agreed upon by the railroads interested. *Acts 1907, sp. sess., no. 17, sec. 14.*

See also pars. 888, 889, 890, 896.

ARIZONA

Nothing in this section contained shall be construed as in anywise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers and property over the lines
1066 owned, operated, controlled or leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of commission to require the establishment of such joint rates, fares and charges. *Sess. Laws 1912, ch. 90, sec. 22(a).*

Whenever commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares or charges in force over two or more common carriers, between any two points in the state, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate, fare or charge exists between such points, and that the public convenience and necessity demand the establishment of a through
1067 route and joint rate, fare or charge between such points, commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare or charge which will be fair, just, reasonable and sufficient, to be allowed, charged, enforced, demanded and collected in the future, and the terms and conditions under which such through route shall be operated. *Same, sec. 33.*

Commission may order that freight moving between such points shall be carried by the different common carriers, parties
1068 to such through route and joint rate, by the nearest and most practicable route and without being transferred from the originating cars. *Same.*

In case the common carriers do not agree between them upon the division of the joint rates, fares or charges established by commission over such through routes, commission shall, after hearing, by supplementary order, establish such division; provided, that where any railroad corporation which is made a party to a through route has itself over its own line an equally
1069 satisfactory through route between the termini of the through route established, such railroad corporation shall have the right to require as its division of the joint rate, fare or charge, its local rate, fare or charge over the portion of its lines comprised in such through route, and commission may, in its discretion, allow to such railroad corporation more than its local rate, fare or charge, whenever it will be equitable so to do. *Same.*

Commission may establish and fix through routes and joint
1070 rates, fares or charges over common carriers and stage or auto stage lines and fix the division of such joint rates, fares or charges. *Same.*

ARKANSAS

If any two or more connecting lines of railroad shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars
1071 over their lines, commission shall make the division and shall fix the pro rata part of such charges to be received by each of said connecting lines. *Kirby's Digest 1904, sec. 6830.*

Where in this state two or more connecting lines of railroad are operated by, or under, one management or company, or where the majority of the stock of each of two or more railroad companies, whose tracks connect, is owned or controlled, either directly or indirectly, by any one of such companies, the lines of railroad of all such companies shall, in respect to the application and making of rates, within the meaning and intent of this
1072 act, be considered as constituting but one and the same railroad, and rates for the carriage of freight or passengers over such railroads, or any portion thereof, shall be computed upon a continuous mileage basis, the same as upon the lines of a single railroad company, whether such railroads have separate boards of directors or not; provided, that commission shall have power to fix different rates for different lines, bearing the

relation to each other described in this section, whenever it finds such action necessary to do justice. *Acts 1907, no. 422, sec. 1.*

CALIFORNIA Provisions substantially identical with par. 1075 1067. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 22(a), 33.*

CONNECTICUT If the lines of any two or more common carriers or railroad or street railway companies form or by the construction and maintenance of a switch or other suitable connection could be made to form a continuous line of transportation, 1074 commission, upon hearing after due public notice, may authorize or require the establishment by such companies at joint rates of through routes or transportation for passengers or for such freight or other property as commission may designate. *Pub. Acts 1911, ch. 128, sec. 21.*

Commission may after due hearing require any of such 1075 companies to operate over its lines cars or other equipment delivered by any other of such companies. *Same.*

If such companies cannot agree as to the division of rates or the conditions under which such through routes or transportation shall be established or such cars or other equipment operated, 1076 commission may, after due hearing, determine and prescribe the proportionate portions of such through rates payable to each of such companies necessary to the establishment of such through routes or transportation, or to the operation of such cars or other equipment. *Same.*

FLORIDA Commission may make reasonable and just joint rates for all connecting railroads as to all traffic or business 1077 passing from one of said railroads to another. *Gen. Stats. 1906, sec. 2893.*

Before applying joint rates to roads not under joint management and control, commission shall give 30 days' notice to the owners, operators or lessees of said road of the joint rate contemplated and of its division of the same and give hearing to roads desiring to object to said rates, and shall make just 1078 and reasonable rules and regulations for the observance of all railroad companies operating said road to prevent the giving or paying of any bonus or rebate or device of any description used by said company directly or indirectly for the purpose of deceiving or misleading the public as to the actual rates charged. *Same, sec. 2894.*

GEORGIA

Substantially identical with pars. 1077, 1078.

1079 *Code 1911, sec. 2630.*

ILLINOIS

Nothing in this section shall be construed as in any wise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of
1080 passengers and property over the lines owned, operated, controlled and leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of commission to require the establishment of such joint rates, fares and charges. *Revisal 1909, ch. 114, sec. 192.*

But this shall not be construed as requiring any common carrier to give the use of its tracks or terminal facilities to another
1081 carrier engaged in like business. *Same.*

Commission may, after hearing upon a complaint or upon its own initiative without complaint, establish joint classifications and may establish through rates and joint rates as the maximum to be charged by all common carriers for the transportation of persons or property between points wholly within the state, and may prescribe the division of such rates and the terms and conditions under which such through rates and joint rates shall
1082 be operated whenever the carriers themselves shall have refused or neglected to establish voluntarily such through rates and joint classifications or joint rates, and this provision shall apply when one of the connecting carriers is a water line; provided, that upon such hearing commission shall find that such through rate and joint classification or joint rate is necessary for the accommodation of the public and will not give to one carrier an unfair or unequal advantage over another. *Same, sec. 193.*

The shipper shall have the right to route his freight whenever
1083 through rates shall have been established either by commission or the railroad. *Same.*

Commission may, after hearing on a complaint or upon its own initiative without complaint, establish through routes and
1084 joint rates and classifications, also a division of such rates, to apply as the maximum to or upon shipments over the routes of two or more express companies or carriers by express between points within the state. *Same, sec. 369.*

Also a provision for express companies or carriers by express
1085 substantially identical with par. 1057. *Same.*

INDIANA

Commission shall, as hereinafter provided, upon the failure of the railroad companies so to do, fix and establish

1006 for all or any connecting lines of railroads, reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of railroads. *Acts 1907, ch. 241, sec. 3(b).*

1007 Also a provision substantially identical with par. 1071. *Same, sec. 3(c).*

1008 All railroad companies shall upon the demand of any person or persons interested, establish reasonable joint rates for the transportation of freight between points upon their respective lines within the state. *Same, sec. 3(n).*

1009 All railroad companies shall receive and transport freight and cars over such route or routes as the shipper may direct. *Same.*

1090 Carload lots shall be transferred without unloading into other cars unless such unloading into other cars shall be done without charge therefor to the shipper or receiver of such carload lots and unless such transfer be made without unreasonable delay. *Same.*

1091 Less than carload lots shall be transferred into the connecting railway's cars at cost which shall be included in and made a part of the joint rate adopted by such railway companies or established as provided in this act. *Same.*

IOWA

The preceding sections of this chapter shall not be construed to prohibit the making of rates by two or more railway companies for the transportation of property over two or more of their respective lines within the state; and a less charge by each of said companies for its portion of such joint shipment than it charges for a shipment for the same distance wholly over its own line within the state shall not be considered a violation of 1092 said chapter, and shall not render such company liable to any of the penalties thereof; but the provisions of this section shall not be construed to permit railway companies establishing joint rates to make thereby any unjust discrimination between the different shipping points or stations upon their respective lines between which joint rates are established, and any such unjust discrimination shall be punished in the manner and by the penalties provided by this chapter. *Code 1897, sec. 2152.*

1093 Commission shall within ten days after this act takes effect notify in writing every railway company that it will upon a day named in such notice, which day shall not be more than 30 days after giving said notice, take up for investigation the subject of establishing joint through rates as herein provided. It shall also

give a similar notice directed "to whom it may concern" and so publish the same that it will have general circulation throughout the state. *Same, sec. 2155.*

1094 All corporations, partnerships and persons interested in the subject may present themselves at the hearing and be heard under such rules and regulations as commission may prescribe. *Same.*

At the end of the investigation, which shall be carried on with all due diligence, commission shall make and publish a schedule of joint through railway rates for such traffic and on 1095 such routes as in its judgment the fair and reasonable conduct of business requires shall be done by carriage over two or more lines of railway and will promote the interests of the people of the state. *Same.*

In establishing such rates for shipments in less than car-load lots, in cases where at the connecting point or points in the line of shipment the connecting railways have not and are not required to have a common station or stopping place for loading 1096 or unloading freight, commission shall make such lawful regulations as in its judgment will be fair and just respecting the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. *Same.*

The joint through rates thus established shall be promulgated by mailing a printed copy thereof to each railway company affected thereby, and shall go into effect within ten days after they are so promulgated; and from and after that time an 1097 official printed schedule thereof shall be prima facie evidence in all courts of the state that the rates therein fixed are just and reasonable for the joint transportation of such freight between the points and over the lines described therein. *Same.*

Commission shall deliver a printed copy of said schedule to 1098 any person making application therefor. *Same.*

The share of any railway company of any joint through rate shall not be construed to fix the charge that it may make for 1099 transportation for a similar distance over any part of its line for any single rate shipment or the share of any other joint rate. *Same.*

Commission, upon reasonable notice as it may prescribe, may upon its own motion or upon the application of any person, firm or corporation interested therein, revise, change or add to any 1100 joint through rate fixed or promulgated thereunder, and any such revised, changed or added joint rates shall have the same force and effect as the rate or rates originally established. *Same.*

Commission may authorize upon proper hearing any railway company whose line connects the point of shipment with the point of destination but requires a longer haul than the joint haul over which a joint rate has been established to charge the joint
1101 rate without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance over its railroad, all of the shorter hauls being included within the longer. *Same.*

This section shall apply to interurban railways and their
1102 connection with ordinary steam railways. *Same.*

Before the promulgation of such rates, commission shall notify the railroad companies interested of the schedule of joint
1103 rates fixed and give them a reasonable time thereafter to agree upon a division of the charges provided for therein. *Same, sec. 2156.*

If such companies fail to agree upon a division and to notify commission thereof, it shall after a hearing of the companies interested decide the same, taking into consideration the value
1104 of terminal facilities and all the circumstances of the haul and the division so determined by it shall, in all controversies or actions between the railway companies interested, be prima facie evidence of a just and reasonable division thereof *Same.*

See also par. 796.

KANSAS

A provision substantially identical with par.
1105 1071. *Gen. Stats. 1909, sec. 7171.*

Commission may after notice and hearing of the interested parties, require any common carriers and all public utilities to
1106 establish and maintain just and reasonable joint rates wherever the same are reasonably necessary to put in, in order to maintain reasonably sufficient and efficient service from such public utilities and common carriers. *Laws 1911, ch. 238, sec. 10.*

See also pars. 920, 921.

LOUISIANA

Commission shall require all railroads and other common carriers upon the demand of any person or persons, firm, partnership or corporation, to adopt and make and thereafter when necessary to change reasonable and just joint through
1107 rates and charges for the transportation of freight whether such shipments be made entirely by railroads or by water transportation or partly by railroads and partly by water, or whether, when made by railroads alone, such freight is forwarded in carloads or less than carload shipments. *Stats. 1904, no. 24, sec. 1.*

Commission shall require all express, telegraph and telephone companies or corporations upon the demand of any person or persons, firm, partnership or corporation to adopt and make and thereafter when necessary to change reasonable and just joint through rates and charges for the carriage of express matter
1108 and the transmission of messages by telegraph and communications by telephone between points in the state, provided, that nothing in this act shall be construed to mean that any telephone or telegraph company shall be required to connect its wires and apparatus with the wires or apparatus of any other telephone or telegraph company. *Same, sec. 2.*

In the event of the failure of the railroads and other common carriers, express, telegraph and telephone companies referred to in this act to establish reasonable joint through rates and charges for transportation of freight and express matter and the transmission of communications by telegraph and telephone, commission shall upon the application of any person, firm, partnership or corporation adopt and make such reasonable and just rates and charges for the transportation of freight carried over
1109 the lines of two or more connecting railroads or other connecting common carriers or for the transportation over the lines of two or more connecting express companies or the transmission of communications over two or more connecting telephone or telegraph lines; and all such rates and charges thus adopted, made and established by commission shall go into effect within 30 days after the same shall have been promulgated by publication in the official journal of commission and written or telegraphic notice given to such companies. *Same, sec. 3.*

Before the promulgation of such rates and charges thus adopted by commission, said commission shall notify the railroads and other common carriers, express, telegraph and telephone companies interested of the proposed schedule of joint through rates to be promulgated by commission, and shall allow
1110 them 30 days thereafter to agree upon a division of the charges provided for in such schedule. If such companies or corporations fail to agree upon a division and notify commission thereof it shall after a hearing of the companies or corporations interested decide the matter and determine how such division should be made. *Same, sec. 4.*

MAINE

When the managers of a railroad authorized to cross or connect with another road are unable to agree therewith as to the transportation of passengers and freight over their roads

and upon other matters, or when the managers of the latter road neglect or fail or refuse to perform the requirements, provisions or conditions of the charter under which they hold and operate their railroad and acts additional and amendatory thereto, they may apply to commissioners in writing and either of them may endorse an order of notice thereon to all interested, fixing a time and place for hearing and the applicant shall cause such order to be complied with. At such hearing any corporation or person claiming to be interested may be made a party and be heard thereon though not named in the application; commission has the authority of courts of law to summon witnesses and compel their attendance and testimony and deposition may be taken and used as in suits at law. When the hearing is closed commission shall determine and award the rates for transporting passengers, freight or cars over the road of each or over any road on which either is a common carrier by contract or otherwise, and all other matters in controversy between the two roads arising from such connecting or crossing or the times of doing so; and may require either party to give security to the other party for the payment of balances resulting from their mutual business on such terms as commission deems equitable; and may determine that its award may be suspended after its acceptance at the election of the party injured by the non-performance of the conditions thereof by the other. *Rev. Stats. 1903, ch. 51, sec. 57.*

The award shall be returned to the supreme judicial court in the county where the hearing was had, and accepted, or for good cause, rejected or recommitted. Exceptions to any ruling of the court in such proceedings may be taken and allowed within the rules of the court, except in recommitting the report; and when so allowed, a certified copy thereof and of all papers used at the hearing, shall be forthwith sent by the clerk of the court to the chief justice; and the parties shall be heard thereon by the law court in the district where the hearing was had; but if such court does not sit within 30 days after the papers are received by the chief justice, he shall, at the request of either party, detail a majority of the justices to hear the case at the time and place ordered by him; send the order to the clerk of the court where the matter is pending, and he shall enter it on the docket under the case, and that shall be sufficient notice to the parties; and the case shall then and there be heard as if at a regular law term. When the award is accepted and judgment rendered thereon, it is binding on all parties

notified, whether they appeared or not, until a new award is made on another application; the court has full power to make the award effectual by process for contempt or otherwise as in equity cases; and if the corporation or managers of any such road, after they are notified of the acceptance of such award, fail to comply with it, the directors, superintendent or other agents operating the same shall be fined not less than \$10 nor more than \$50 for each day of such failure, to be recovered by indictment in the county where it occurs. *Same, sec. 58.*

MARYLAND

Nothing in this section shall be construed as in any wise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers, freight and property over the lines owned, operated, controlled and leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of commission to require the establishment of such joint rates, fares and charges. A railroad corporation and a street railroad corporation shall not be required to interchange cars except on such terms and conditions as commission may require. *Laws 1910, ch. 180, sec. 18.*

Commission may, by order, require any two or more common carriers whose lines owned, operated, controlled or leased form a continuous line of transportation or which could be made to do so by the construction and maintenance of switch connection, to establish through routes and joint rates, fares and charges for the transportation of passengers, freight and property as commission may, by its orders, designate. *Same, sec. 23.*

In case such through routes and joint rates be not established by common carriers named in any such order within the time specified therein, commission shall establish just and reasonable rates, fares and charges to be charged for such through transportation, and declare the portion thereof to which each common carrier affected thereby shall be entitled and the manner in which the same shall be paid and secured. *Same.*

MASSACHUSETTS *See par. 2368.*

MICHIGAN

All railroads as between themselves, and all electric railroads as between themselves, shall establish through routes and just and reasonable rates applicable thereto except as hereinafter provided. *Pub. Acts 1909, no. 300, sec. 4(b).*

Commission may, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and

the terms and conditions under which such through routes shall
1117 be operated when the common carriers complained of have re-
fused or neglected to voluntarily establish such through routes
and joint rates; provided, no reasonably satisfactory through
route and joint rate exist. *Same, sec. 22(e).*

1118 Also a provision substantially identical with par. 1057.
Same.

All express companies shall publish and continue in force and
effect through or joint rates between all points at which offices
are maintained on the line of all express companies; provided, that
1119 such express companies may divide charges for transportation in
such a manner as to allow participating carriers an agreed mini-
mum proportion when the division of such charges on a mileage
basis would not allow a sufficient minimum. *Pub. Acts 1911, no.*
139, sec. 25(c).

See also pars. 940, 941, 942, 943.

MINNESOTA There shall be but one terminal charge for
switching or transferring any car within any one municipality.
If it is necessary that any car in such transfer pass over the tracks
of more than one railroad within such limits, the company first so
transferring such car shall receive the entire charge therefor, and
1120 shall be liable to each company doing subsequent switching
thereof for its just share of such charge, subject to the rules
adopted by commission. Any disagreement as to such division
shall be finally determined by commission. *Rev. Laws 1905, sec.*
2016.

Less than carload lots shall be transported at cost, and the
charge for such transfer shall be included in the joint rate. All
1121 railroad companies shall give the same facilities to local or state
as to interstate traffic. *Same, sec. 2022.*

Within a reasonable time commission shall make general
rules fixing the percentage relation to govern in the making of
joint rates between common carriers for the transportation of
freight and express in carload and less than carload lots, and
1122 shall make all rules necessary to govern the transfer of freight and
express between carriers. Commission may change the rules or
regulations from time to time to meet different conditions and to
promote justice. *Laws 1911, ch. 313, sec. 1.*

No carrier shall be required to deliver to another carrier at a
connecting or junction point freight or express destined to a com-
1123 mon point reached by both carriers unless commission finds it is
necessary in order to obtain reasonable rates and service. *Same.*

Before making any order as herein provided, commission
1124 shall give such hearing as may be deemed necessary. *Same.*

The several carriers shall establish joint rates on all intra-
state freight and express transported in carload and less than
1125 carload lots within 30 days after commission has established rules
to govern in the making of joint rates between carriers. *Same*
sec. 2.

If carriers fail to agree on the division of the joint rate, com-
1126 mission on the application of any party interested shall fix such
division. *Same.*

Any carrier failing to comply with any provision of this
1127 act or any rule of commission, shall be subject to a fine of not ex-
ceeding \$100 for each offense. *Same, sec. 3.*

MISSISSIPPI In fixing joint tariffs of rates for connecting
lines, commission shall determine the proportion to be charged
1128 by each of the railroads or other common carriers. *Code 1906,*
sec. 4842.

MISSOURI Commission shall see that the schedules of
joint rates, fares and charges are reasonable and just and that
such schedule of joint rates, fares and charges shall be observed
by all common carriers who are parties to the same. But no such
1129 common carrier party to any such joint tariff shall be liable
for the failure of any such common carrier party thereto to ob-
serve and adhere to the rates, fares and charges as made and
published. *Rev. Stats. 1909, sec. 3189.*

See also par. 813.

MONTANA Commission shall fix and establish for all or
any connecting lines of railroad reasonable joint rates of freight
1130 charges for the various classes of freight and cars that may pass
over two or more lines of such railroads. *Rev. Codes 1907, sec.*
4375.

NEBRASKA Commission shall fix for all or any connecting
lines of railroad reasonable joint rates of freight charges and
1131 terminal switching charges for the various classes of freight and
cars that may pass over two or more lines of such railroads.
Cobbey's Annot. Stats. 1909, sec. 10650(g).

Also a provision substantially identical with par. 1071.
Same.

1132 Railway companies shall establish reasonable joint through

rates for the transportation of freight upon their respective lines
Same, sec. 10660.

Railway companies shall receive and transport freight and
1134 cars over such route or routes as the shipper shall direct. *Same.*

Carload lots shall be transferred without unloading from the
cars in which such shipments were first made unless such unload-
1135 ing into other cars shall be done without charge therefor to the
shipper or receiver of such carload lots and unless such transfer
be made without unreasonable delay. *Same.*

Less than carload lots shall be transferred into connecting
carriers' warehouse or cars at cost, which shall be included in and
1136 made a part of the joint rates adopted by such railway com-
panies or established as provided in this chapter. *Same.*

When shipments of freight to be transported between dif-
ferent points within the state are required to be carried by two or
more railway companies operating connecting lines, such rail-
1137 way companies shall transport the same at reasonable through
rates and shall at all times give the same facilities and accom-
modations to local or state traffic as they give to interstate
traffic over their lines or road. *Same.*

In the event that railway companies or common carriers
fail to establish through joint rates or fail to establish and charge
reasonable rates for such shipment, commission shall, either upon
1138 its own motion or upon the application of some person interested,
establish such rates for the shipment of freight and cars over two
or more connecting lines of railroad. *Same.*

In the making thereof and in changing or revising same,
commission shall be governed as nearly as may be by the pro-
visions of this act with reference to original schedules of freights
and tariffs for railway companies and common carriers, and
1139 shall take into consideration the average rates charged by said
railway companies or common carriers for shipments within the
state for like distances over their respective lines and the rates
charged by railway companies or common carriers operating such
connecting lines for joint interstate shipments for like distances.
Same.

Rates fixed by commission shall go into effect 30 days after
mailing a copy of the schedule of joint rates to the railway
companies and common carriers affected thereby, which schedule
shall be prima facie evidence in all courts in the state when
1140 authenticated by commission that the rates therein contained are
those fixed by commission and that the same are prima facie just

and reasonable for the transportation of freight and cars by the railway companies or common carriers for which said schedules have been fixed. *Same.*

NEVADA Commission may make just and reasonable regulations for the apportionment of all charges between two or more companies jointly engaged in the transportation of freight,
1141 passengers, express matter, telegraph or telephone messages.
Stats. 1907, ch. 44, sec. 7, as amended by Stats. 1909, ch. 121, sec. 3.
See also pars. 977, 980.

NEW JERSEY *See par. 986.*

NEW YORK A provision identical with par. 1080. *Laws*
1142 *1910, ch. 480, sec. 35.*

A railroad corporation and a street railroad corporation shall
1143 not be required to interchange cars except on such terms and conditions as commission may direct. *Same.*

Commission may by order require any two or more common carriers, railroad or street railroad corporations, whose lines owned, operated, controlled or leased, form a continuous or connecting line of transportation or could be made to do so by the
1144 construction and maintenance of switch connection or interchange track at connecting points or by transfer of property or passengers at connecting points, to establish through routes and joint rates, fares and charges for the transportation of passengers and property as commission may by its order designate. *Same, sec. 49(3).*

1145 Also a provision for common carriers, railroad and street railroad corporations identical with par. 1115. *Same.*

Commission may, in the same proceeding or in a separate proceeding involving any rates, fares or charges, prescribe joint rates, fares and charges as the maximum to be exacted for the transportation by them of passengers and property and require
1146 such common carriers, railroad and street railroad corporations affected thereby to make within a specified time an agreement between them as to the portion of such joint rates, fares or charges to which each of them shall be entitled. *Same.*

In case such agreement be not made within the time so specified, commission may declare by supplemental order the portion thereof to which each common carrier, railroad or street
1147 railroad corporation affected thereby shall be entitled and the manner in which the same shall be paid and secured, and such supplemental order shall take effect as part of the original order

from the time such supplemental order shall become effective.
Same.

No passenger joint rate, fare, charge, through route or transfer shall be required between any rapid transit railroad and any other rapid transit railroad or any railroad operated as a street surface railroad, nor between a street surface railroad and any railroad operated wholly by steam or any railroad operated a distance of over 50 miles partly by steam and partly by electricity. *Same, sec. 49(8).*

NORTH CAROLINA Commission shall not, in fixing the maximum rates and charges or tariff of rates or charges for any common carrier transporting freight, permit or allow any such common carrier to charge, collect or receive a greater toll, charge or rate for the transportation of any article of freight or commodity embraced in the present classification fixed and prescribed or approved by commission where the initial point of shipment is on the road or line of one common carrier and the terminal point of said shipment is on the line or road of another common carrier than is the sum of the present local rates now established, prescribed or approved by commission less a reduction of 25 per cent. of the said local rates on all railroads for which there is now made or prescribed a reduction for a joint haul; and on those railroads for which there is not now prescribed a reduction on joint hauls, a reduction of 15 per cent. of the local rates now established, prescribed by commission for said railroads; provided, that those railroads of this class whose rates are lower than the commission's standard of freight rates may be permitted by commission to adopt the standard rates prescribed by commission; provided, commission is hereby empowered to reduce the said local rates whenever in its opinion and after investigation by it, it shall determine that a lower rate is reasonable. Provided, however, that present local rates now established, prescribed or approved by commission shall not be increased by classification or otherwise. Provided, further, commission may, when it is made to appear that it is just to do so, exempt from the operation of this section that part of the charges of a joint haul which is over the line or lines of a railroad company, which company now owns, leases or operates not more than 125 miles of railroad in or out of the state. *Pell's Revisal 1908, sec. 1104(a).*

NORTH DAKOTA There shall in no case be more than one terminal charge for switching or transferring any car, whether the

same is loaded or empty, within the limits of any one city or town. If it is necessary for any car to pass over the tracks of more than one company within any such city or town limits in order to reach its final destination or to be returned therefrom to its owner or owners, then the company first switching or transferring such car shall be entitled to receive the entire charge to be made therefor and shall be liable to the company or companies
1150 doing the subsequent switching or transferring thereof for its or their reasonable and equitable share of the compensation received and if the companies so jointly interested therein cannot agree upon the share thereof which each is entitled to receive, the same shall be determined by commission, whose decision thereon shall be final and conclusive upon all parties interested and commission may establish such rules and regulations in that behalf as to it may seem just and reasonable and not in conflict with this article. *Rev. Codes 1905, sec. 4338.*

Commission may make just and reasonable regulations for the apportionment of all charges between two or more companies
1151 jointly engaged in the transportation of freight, passengers, express matter, telegraph or telephone messages, and commission shall prepare such schedules and classifications. *Same, sec. 4343, as amended by Laws 1911, ch. 255, sec. 2.*

OHIO Whenever any rate, toll, charge or service ordered substituted by commission shall be a joint rate, toll, charge or service and the public utilities parties thereto fail to agree upon the apportionment thereof within 20 days after the
1152 service of such order, commission may after hearing make and issue a supplemental order fixing the apportionment of such joint rate, toll, charge or service between such public utilities and the same shall take effect of its own force as a part of the original order. *Laws 1911, no. 325, sec. 42.*

See also pars. 1001, 1002, 1003.

OREGON Provisions for railroads substantially identical with pars. 1061, 1062, 1063, except that "through route" is in-
1153 cluded in par. 1062 and "as provided in sections 5667 and 5668 of this code" reads "as in section 28 provided." *Gen. Laws 1907, ch. 53, sec. 30.*

See also pars. 1009, 1021.

RHODE ISLAND *See pars. 1025, 1028.*

SOUTH CAROLINA Commission may make just and reasonable joint rates for all connecting roads as to all traffic or business

1184 passing from one of said roads to another and may require the making of such connection at intersecting points of the schedules of trains as the public convenience may in its judgment demand. *Gen. Stats. 1902, sec. 2092.*

1185 Also a provision substantially identical with par. 1078. *Same.*

All connecting railroads doing business in this state, and under the management or control, by lease, ownership, association or otherwise, of one and the same person, firm, corporation
1186 or association, shall for purposes of transportation, in applying freight and passenger tariffs, be considered as constituting but one and the same road, and the rate shall be computed as upon parts of one and the same road unless otherwise specified by commission. *Same, sec. 2115.*

SOUTH DAKOTA All railway companies doing business in the state shall upon the demand of any person or persons interested
1187 or upon demand of commission, establish reasonable and joint through rates for the transportation of freight between points on their respective lines. *Sess. Laws 1907, ch. 212, sec. 2.*

Carload lots shall be transferred without unloading from the cars in which such shipments were first made unless such unloading into other cars shall be done without charge therefor to
1188 the shipper or receiver of such carload lots, and such transfer shall be made without unreasonable delay under such contract arrangements as such connecting companies may make or under such rules as commission may prescribe as provided for in this act. *Same.*

Less than carload lots shall be transferred into the connecting railway (or carriers') cars at cost which shall be included
1189 in and be a part of the joint rates adopted by such railway companies (common carriers) or established as provided by this act. *Same (railway companies); Sess. Laws 1911, ch. 207, sec. 35 (common carriers).*

When shipments of freight (or express) to be transported between different points in the state are required to be carried by two or more railway companies (or common carriers) operating
1190 connecting lines such railway companies (or common carriers) shall transport the same at reasonable through rates and shall at all times give the same facilities and accommodations to local or state traffic as they give to interstate traffic over their lines of road. *Same.*

This article shall not be construed to prohibit the making

of rates of two or more common carriers for the transportation of property, express or telephone messages over two or more of their respective railway, express or telephone lines within the state, and a less charge by each of said common carriers for its portion of such joint shipment than it charges for a shipment for the same distance wholly over its own lines within the state, shall not be
1161 considered a violation of this article, and shall not render such common carrier liable to any of the penalties of this article; but the provisions of this section shall not be construed to permit common carriers establishing joint rates to make by such joint rates any unjust discrimination between the different shipping points or stations upon their respective lines between which joint rates are established, and any such unjust discrimination shall be punished in the manner and by the penalties provided by this article. *Sess. Laws 1911, ch. 207, sec. 34.*

All common carriers shall upon the demand of any person or persons interested establish reasonable joint through rates for
1162 the transportation of freight, express or telephone messages between points upon their respective lines. *Same, sec. 35.*

All common carriers shall receive and transport freight, cars,
1163 express and telephone messages over such route or routes as the shipper may direct. *Same.*

Carload lots shall be transferred without unloading from the cars in which shipments were first made unless such unloading in
1164 other cars shall be done without charge therefor to the shipper or receiver of such carload lots, and such transfer be made without unreasonable delay. *Same.*

In the event that common carriers shall fail to establish through joint rates or fail to establish and charge reasonable rates for such through shipments, commission shall upon its own initiation or upon complaint of any person or persons interested,
1165 establish reasonable individual joint rates or schedules of reasonable joint rates for the transportation of freight, cars, express and telephone messages over two or more connecting lines of common carriers. *Same, sec. 36.*

In the making of such rates and in changing or revising the same commission shall be governed as near as may be by all the provisions of this article and shall take into consideration the
1166 average of rates charged by said common carriers for the transportation within the state for like distances over their respective lines and rates charged by the common carrier operating such connecting lines for joint interstate shipment for like distances. *Same.*

The rates established by commission shall go into effect within ten days after the same are promulgated by commission and from and after that time the schedules of rates shall be
1167 prima facie evidence in all of the courts of the state that the joint rates therein fixed are reasonable and just maximum rates for the transportation of freight, cars, express and telephone messages upon the common carrier for which such schedules have been fixed. *Same.*

Before the promulgation of such rates as provided in preceding section, commission shall notify the common carriers
1168 interested in the individual joint rates or schedule of joint rates fixed by it and commission shall give the common carriers a reasonable time thereafter to agree upon a division of the charges provided for in such schedule. *Same, sec. 37.*

In the event of the failure of the common carriers to agree upon a division and to notify the commission of such agreement, commission shall after a hearing of the common carrier in-
1169 terested decide the same, taking into consideration the value of terminal facilities and all the circumstances of the carriage or haul. *Same.*

The division so determined by commission shall in all controversies or suits between the common carriers interested and
1170 between commission and such common carriers be prima facie evidence of a just and reasonable division of such charges. *Same.*

In the event that railway companies fail to establish through joint rates or fail to establish and charge reasonable rates for through shipments or fail to establish between themselves the rates for through shipments or fail to establish between themselves the rates and terms on which cars of one company shall be transferred in through shipments from the line of one company
1171 to the other and returned, or fail to provide for the convenient and prompt transfer of through freight from the cars of the receiving company to those of the connecting line, commission shall upon its own initiative or upon complaint of any person or persons interested establish joint rates for the shipment of freight and cars over any two or more connecting lines of railroad and prescribe reasonable rules under which any such cars so transferred shall be returned. *Same, sec. 39.*

In establishing, changing or revising any such rates, commission shall take into consideration the average of rates charged
1172 by said railway companies operating said connecting lines for joint interstate shipments for like distances. *Same.*

The rates established by commission shall go into effect within ten days after the same are promulgated by commission and from and after that time the schedules of rates so established
1173 shall be prima facie evidence in all the courts of the state that such rates are reasonable through rates for the transportation of freight and cars upon the railroads for which such schedules shall have been fixed. *Same.*

Before the promulgation of such rates or rules as above provided, commission shall notify the common carriers interested in
1174 the schedule of joint rates fixed by it and shall give said common carriers a reasonable time thereafter to agree upon a division of charges provided for in such schedule. *Same, sec. 40.*

In the event of the failure of the common carriers to agree upon such division and to notify commission of such agreement
1175 commission shall after a hearing of the carriers interested decide the same, taking into consideration the value of terminal facilities and all the circumstances of the haul. *Same.*

The division so determined by commission shall in all controversies or suits between the common carriers interested be
1176 prima facie evidence of the just and reasonable division of such charges. *Same.*

See also par. 342.

TEXAS A provision identical with par. 1130. *Sayles' Civ. Stats. 1897, art. 4562(5).*

Also a provision substantially identical with par. 1071.
1178 *Same, art. 4562(6).*

WASHINGTON Whenever commission shall be of opinion, after hearing had upon its own motion or upon complaint, that the rates and charges in force over two or more railroads between any two points in the state are unjust or unreasonable or excessive or that no satisfactory through route or joint rate exists between such points and that the public necessities and convenience demand the establishment of a through route and a joint rate
1179 between such points, commission may order such railroads to establish such through route and may establish and fix a joint rate which will be fair, just, reasonable and sufficient to be followed, charged, enforced, demanded and collected in the future. *Laws 1911, ch. 117, sec. 57.*

Commission may order that carload freight moving between
1180 such points shall be carried by the different companies parties to such through route and joint rate without being transferred from the originating cars. *Same.*

In case no agreement exists between such railroads for the interchange of cars, then commission before making such order
1181 shall make rules for the expeditious and safe return and proper compensation for the cars so loaded by the company or companies receiving the same. *Same.*

Whenever any order of commission shall require joint action by two or more public service companies such order shall specify that the same shall be made at their joint cost and the companies affected shall have 30 days or such further time as commission
1182 may prescribe within which to agree upon the part or division of costs which each shall bear and costs of operation and maintenance in the future or the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations. *Same, sec. 83.*

If at the expiration of such time such companies shall fail to file with commission a statement that an agreement has been made for the division or apportionment of such cost, the division of cost of operation and maintenance to be incurred in the future
1183 and the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations, commission shall have authority after further hearing to enter a supplemental order fixing the proportion of such cost or expenses to be borne by each company and the manner in which the same shall be paid and secured. *Same.*

WISCONSIN Provisions for railroads substantially identical with pars. 1061, 1062, 1063, except that in par. 1062 "as provided in sections 5667 and 5668 of this code" reads "as in section 12 of this act provided."
1184 *Laws 1905, ch. 362, sec. 1797-14(e); Laws 1905, sp. sess., ch. 17, sec. 1797-14(f).*
See also pars. 1045, 1051.

2. *Physical Connection of Telephone and Telegraph Companies.*¹

ARIZONA, CALIFORNIA

Whenever commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone corporations or two or more telegraph corporations whose lines can be made to form a continuous line of communication by the construction and maintenance of suitable con-

¹ See also pars. 2337-2344.

nections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone corporations have failed to establish joint rates, tolls or charges for service by
1186 or over their said lines, and that joint rates, tolls, or charges ought to be established, commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points within the same city, or town,¹ and that conversations be transmitted and messages transferred over such connections under such rules and regulations as commission may establish, and prescribe through lines and joint rates, tolls, and charges to be made and to be used, observed and in force in the future. *Ariz.—Sess. Laws 1912, ch. 90, sec. 40; Cal.—Stats. 1911, ch. 14, sec. 40.*

If such telephone or telegraph corporations do not agree upon the division between them of the cost of such physical connection or connections or the divisions of the joint rates, tolls, or
1186 charges established by commission over such through lines, commission shall have authority, after further hearing, to establish such division by supplemental order. *Same.*

See also pars. 2337, 2417, 2418.

KENTUCKY

Any association or corporation or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines, and said companies shall receive and transmit each other's messages without unreasonable delay or discrimination, and all such companies are hereby declared to be common carriers and subject to legislative control. Telephone companies operating exchanges
1187 in different towns or cities, or other public stations, shall receive and transmit each other's messages without unreasonable delay or discrimination. The general assembly shall, by general laws of uniform operation, provide reasonable regulations, to give full effect to this section. Nothing herein shall be construed to interfere with the rights of cities or towns to arrange and control their streets and alleys and to designate the places at which, and the manner in which the wires of such companies shall be erected or laid within the limits of such city or town. *Const., sec. 199.*

LOUISIANA

See pars. 1108, 1109, 1110.

¹Include "city and county" in California.

MICHIGAN

Whenever application shall be made to commission by any party in interest to order the physical connection of any local telephone exchange, operated by any person, co-partnership or corporation, with the local telephone exchange operated by any other person, copartnership or corporation in the same city or village, commission shall give due notice to the respective persons, co-partnerships or corporations owning such telephone exchanges of a hearing to be had upon such application; and, after such hearing and such other investigation made either by itself or its servants and agents, said commission shall determine, by its order duly made and entered upon its records, whether or not such physical connection is required by the public necessity or convenience in the case brought before it by such application. If commission shall decide that such connection is so required, the telephone companies affected by such order shall furnish and maintain all reasonable and proper facilities for the interchange of service between their respective exchanges affected by such order, including all necessary trunk lines, switchboards, wires, aerial or cable, crossarms, poles or other fixtures; all necessary construction, maintenance and equipment to be built and maintained in such manner, under such rules, and with such division of expense and labor as shall or may be required or provided by commission. Every telephone corporation affected by such order is hereby required to perform switching service for any other telephone corporation similarly affected by connecting its lines temporarily with the lines of the other telephone corporation, providing for the direct transmission of messages between subscribers, and shall request the connection of its lines with the lines of the other telephone corporation on request of any of its subscribers. Any telephone corporation which is required to perform switching service for another telephone corporation under the terms of such an order may demand and receive as compensation for such service the sum of five cents per message in addition to the regular service charge, if any. The telephone corporation on whose line or lines messages originate shall be responsible to and make settlement with the terminal companies performing the switching service for it on its request, and may demand and receive from its subscribers a fee of five cents per message in addition to the regular service charge if any for all messages sent by it to other telephone companies on request of such subscribers in accordance with the provisions of this act. Whenever a subscriber of any telephone company affected by

such order of commission desires to talk with a subscriber of another telephone corporation so affected, who is connected with an exchange other than that in the city, village or township in which the message originates, the switching service between the companies shall be done at whatever point may be designated by commission. The company at whose exchange messages of this kind originate may demand and receive from its subscribers the charge for switching service as provided above in addition to the regular toll charges of the companies over whose line or lines or affiliated line or lines the messages are sent; and the division of commissions and toll charges shall be made between the companies in such proportion as said commission may designate. Provided, that the provisions of this section in regard to switching charges shall not apply when two or more competing companies in any locality shall merge or consolidate their property and business in such locality under the direction of said commission, or when one competing company shall sell or lease its plant, property and business to another company in the same locality, such merger, consolidation, sale or lease, if with the approval of commission being hereby declared lawful. Commission may make all such reasonable rules or orders as may be reasonable or necessary to carry out the intent of the provisions of this section, and refusal to obey such rules, orders or provisions of this section shall be unlawful. *Pub. Acts 1911, no. 138, sec. 6.*

MISSISSIPPI *See par. 1128.*

NEVADA *See par. 1141.*

NEW MEXICO All telephone and telegraph lines, operated for hire, shall receive and transmit each other's messages without
1100 delay or discrimination, and make and maintain connections with each other's lines, under such rules and regulations as may be prescribed by commission. *Const., art. xi., sec. 16.*

NEW YORK Commission may by order require any two or more telegraph corporations whose lines form a continuous line of communication or could be made to do so by the construction and maintenance of suitable connections or transfer of messages at common points between different localities which are not reached
1100 by the line of either company alone, to establish through lines between two or more such localities and joint rates or charges for service by or over said lines as commission may by its order prescribe. *Laws 1910, ch. 480, sec. 97(3).*

In case such through lines and joint rates be not established

by the corporations named in any such order within the time therein specified, commission may by order establish the same
1191 and fix the just and reasonable rates and charges to be charged for such through service and declare the portion thereof to which each of the corporations affected thereby shall be entitled and the manner in which the same shall be secured and paid. *Same.*

OHIO

Commission may, upon complaint in writing by any person or on its own initiative by order, require any two or more telephone companies whose lines or wires form a continuous line of communication or could be made to do so by the construction and maintenance of suitable connections or the joint use
1192 of equipment or the transfer of messages at common points between different localities which cannot be communicated with or reached by the lines of either company alone, where such service is not already established or provided for unless public necessity requires additional service, to establish and maintain through lines within the state between two or more such localities. *Laws 1911, no. 325, sec. 66.*

The joint rate or charges for such service shall be just and reasonable and commission may establish the same and declare
1193 the portion thereof to which each company affected thereby shall be entitled and the manner in which the same shall be secured and paid. *Same.*

All necessary construction, maintenance and equipment in order to establish such service, shall be constructed and maintained in such manner and under such rules with such divisions of
1194 expense and labor as shall or may be required by commission. *Same.*

OKLAHOMA

All telephone and telegraph lines, operated for hire, shall each respectively receive and transmit each other's messages without delay or discrimination, and make physical connection with each other's lines, under such rules and regulations
1195 as shall be prescribed by law, or by any commission created by this constitution or act of the legislature for that purpose. *Const., art. ix, sec. 5.*

SOUTH CAROLINA Commission shall require reasonable connections to be made and maintained, when practicable, between lines, stations, or exchanges for the transmission of intelligence for hire and fix and regulate reasonable rates, tolls, or compensation therefor, and also require reasonable connections to be
1196 made and maintained, when practicable, between any such lines,

stations or exchanges, and the lines or stations or stations of private individuals, firms or corporations desiring such connections. *Laws 1904, no. 281, sec. 1.*

SOUTH DAKOTA Every telephone company shall connect its lines with the lines of any other telephone company doing business in the same vicinity, that makes application therefor, and shall afford all reasonable and proper facilities for the interchange and switching of messages between lines, for a reasonable compensation and without discrimination, and under such rules and
1197 regulations as commission may prescribe. Provided, that messages originating on any line shall have preference over messages originating on competing lines. Provided, that the maximum charges for switching shall not exceed 25 cents per month for each instrument on any rural party line so connected. *Sess. Laws 1909, ch. 289, sec. 8.*

Commission shall have jurisdiction to compel the connection of different telephone lines in the state of South Dakota. Any telephone company desiring its lines to connect with any other company's line or exchange shall, whenever such connection shall be refused, make application to commission. Provided, however, that when any telephone line shall be constructed to the corporate limits of any city, town or village and shall be denied the privilege to construct its telephone line within such corporate limits commission may, in its discretion, compel the construction of such connections by such company or companies interested therein and the expense of such construction and connection shall
1198 be borne by the companies interested; in such manner as commission shall determine. Upon receipt of such application commission shall ascertain the facts in the case and if in their judgment the public service demands said connection and the lines of the applicant are in proper condition, said commission shall order such connections to be made, and shall apportion the expense thereof. Provided, however, that no wire shall be compelled to connect except at exchanges or station points. Nothing in this act shall be construed to prevent any telephone company, from connecting its line or lines with any other telephone company's line or lines by mutual consent. *Sess. Laws 1911, ch. 218, sec. 5:*

See also pars. 1161, 1162, 1163, 1165, 1167, 1168, 1169, 1170, 1174, 1175, 1176, 2431.

WASHINGTON Whenever commission shall find that any two or more telephone companies whose lines form a continuous line of

communication or could be made to do so by the construction and maintenance of suitable connections for the transfer of messages or conversations at common points between different localities which are not reached by the line of either company alone and that such connections or facilities for the transfer of messages or conversations at common points can reasonably be
1199 made and efficient service obtained and that a necessity exists therefor or shall find any two or more telegraph or telephone companies have failed to establish joint rates or charges for service by or over their said lines and that joint rates or charges ought to be established, commission may by its order require such connections to be made and that conversations be transmitted and messages transferred and prescribed through lines and joint rates and charges to be made and to be used, observed and in force in the future and fix the same by order to be served upon the company or companies affected. *Laws 1911, ch. 117, sec. 73.*

See also pars. 1182, 1183.

WISCONSIN

Every utility for the conveyance of telephone messages shall permit a physical connection or connections to be made, and telephone service to be furnished, between any telephone system operated by it, and the telephone toll line operated by another such public utility, or between its toll line, and the telephone system of another such public utility, or between its toll line and the toll line of another such public utility, or between its telephone system and the telephone system of another such public utility, whenever public convenience and necessity
1200 require such physical connection or connections, and such physical connection or connections will not result in irreparable injury to the owners or other users of the facilities of such public utilities, nor in any substantial detriment to the service to be rendered by such public utilities. The term "physical connection," as used in this section, shall mean such number of trunk lines or complete wire circuits and connections as may be required to furnish reasonably adequate telephone service between such public utilities. *Laws 1907, ch. 499, sec. 1797m-4, as amended by Laws 1911, ch. 546.*

In case of failure to agree upon such physical connection or connections or the terms and conditions upon which the same shall be made, any public utility or any person, association or corporation interested may apply to commission, and if after investigation commission shall ascertain that public convenience and necessity require such physical connection or connections and

that such physical connection or connections would not result in
1201 irreparable injury to the owner or other users of the facilities of
such public utilities nor in any substantial detriment to the serv-
ice to be rendered by such public utilities or other users of such
facilities, it shall by order direct that such physical connection or
connections be made and determine how and within what time
such connection or connections shall be made and by whom the
expense of making and maintaining such connection or con-
nections shall be paid. *Same.*

Such physical connection or connections so ordered shall be
made and such terms and conditions upon which such physical
connection or connections shall be made so determined shall be
1202 the lawful terms and conditions upon which physical connection
or connections shall be made, to be observed, followed and paid,
subject to recourse to the courts upon the complaint of any in-
terested party. Any such order of commission may be from
time to time revised by commission upon application of any in-
terested party or upon its own motion. *Same.*

Whenever two or more public utilities for the conveyance
of telephone messages shall connect in furnishing joint telephone
service to the public or shall be required to furnish such service as
1203 provided in section 1797m-4, and shall refuse or neglect to estab-
lish joint toll or tolls, commission may after notice and a public
hearing, as provided in sections 1797m-44 and 1797m-45, fix and
establish by order such joint toll or tolls. *Same, sec. 1797m-30*
(2), as amended by Laws 1911, ch. 546.

If the public utilities party thereto shall fail to agree upon
the apportionment thereof within 20 days after the service of such
1204 order, commission may upon a like hearing issue a supplemental
order declaring the apportionment of such joint toll or tolls and
the same shall take effect of its own force as part of the original
order. *Same.*

3. Street Railway Transfers.

ARIZONA, CALIFORNIA

No street or interurban railroad corporation
shall charge, demand, collect or receive more than five cents for
one continuous ride in the same general direction within the cor-
porate limits of any city or town,¹ except upon a showing before
commission that such greater charge is justified; provided, that
1205 until the decision of commission upon such showing, a street or

¹ Include "city and county" in California.

interurban railroad corporation may continue to demand, collect, and receive the fare in effect on February 14, 1912 (Cal.—October 10, 1911), or at the time commission acquires as to such corporation the power to fix fares within such city or town. *Ariz.—Sess. Laws 1912, ch. 90, sec. 27; Cal.—Laws 1911, 1st. ex. sess., ch. 14, sec. 27.*

Every street or interurban railroad corporation shall upon such terms as commission shall find to be just and reasonable furnish to its passengers transfers entitling them to one continuous trip in the same general direction over and upon the portions of its lines within the same city and county, or city or town, not reached by the originating car. *Same.*

NEW YORK Whenever commission shall be of the opinion after a hearing that the practices and service and the rules and regulations affecting the same, of any street railroad corporation are as to the transportation upon the street surface railroads of said corporation by use of transfers given to each passenger paying one single fare, unjust and unreasonable, either as to persons transported upon said street surface railroads or as to any such street railroad corporations, commission shall determine and prescribe by order the just and reasonable service and rules and regulations affecting the same thereafter to be maintained and observed by said street railroad corporation (a) as to the distance over which a passenger shall by such transfer be transported by it upon said street surface railroad for a single fare; (b) the number of successive transfers to be given by it to a passenger paying one single fare for transportation over said street surface railroads and (c) as to the prompt use by each passenger of such transfer given him for one single fare paid by him in making his continuous trip over said street surface railroads. And it shall thereupon be the duty of every such street railroad corporation to obey each requirement of every such order served upon it and do everything necessary and proper in order to secure compliance with and observance of every such order by all of its officers, agents and employees. But nothing herein contained shall affect or modify the terms of a certain contract bearing date January 1, 1892, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in said contract. *Laws 1910, ch. 480, sec. 49(6).*

Until and except as commission shall otherwise prescribe as to any street railroad corporation or corporations pursuant to the provisions of this chapter, every street surface railroad cor-

poration entering into a contract with another such corporation as provided in section 78 of the railroad law shall carry or permit
1208 any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. *Same, sec. 49(7).*

Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any
1209 point or portion of any railroad embraced in such contract, to the end that public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. *Same.*

For every refusal to comply with the requirements of this
1210 subdivision the corporation so refusing shall forfeit \$50 to the aggrieved party. *Same.*

The provisions of this subdivision shall only apply to rail-
1211 roads wholly within the limits of any one incorporated city or village. *Same.*

See also par. 1148.

WASHINGTON No street railroad company shall charge, demand or collect more than five cents for one continuous ride
1212 within the corporate limits of any city or town. *Laws 1911, ch. 117, sec. 25.*

Every street railroad company shall upon such terms as shall be just and reasonable, furnish to its passengers transfers
1213 entitling such passengers to one continuous trip over and upon portions of its lines within the same city or town not reached by the originating car. *Same.*

WISCONSIN Whenever upon an investigation made under the provisions of this act, commission shall find any regulation or practice with respect to the issuing of transfers by any street or interurban railway company to be unreasonable, it shall deter-
1214 mine and by order fix a reasonable regulation to be observed and followed in the future, in lieu of the regulation found to be unreasonable. A certified copy of such order shall be delivered to an officer or agent of the street or interurban railway company affected thereby. *Laws 1909, ch. 348, sec. 1797-14(g).*

E. AUTHORITY OF COMMISSION AND DUTY OF UTILITIES WITH RESPECT TO THE ESTABLISHMENT AND CHANGE OF PARTICULAR RATES AND CHARGES.

1. Interstate Rates.

ARIZONA, CALIFORNIA

Commission may investigate all existing or proposed interstate rates, fares, tolls, charges and classifications, and all rules and practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversations, where any act in relation thereto shall
1215 take place within the state; and when the same are in the opinion of commission, excessive or discriminatory or in violation of the act to regulate commerce, or of any other act of congress, or in conflict with the rulings, orders or regulations of the interstate commerce commission, commission may apply by petition or otherwise to the interstate commerce commission or to any court of competent jurisdiction for relief. *Ariz.—Sess. Laws 1912, ch. 90, sec. 34; Cal.—Stats. 1911, 1st. ex.sess., ch. 14, sec. 34.*

ARKANSAS

Commission shall have power, and it is hereby made its duty, to investigate all through freight rates and regulations on railroads in Arkansas; and when the same are, in the opinion of commission, excessive or levied in violation of the interstate commerce law, or the rules and regulations of the
1216 interstate commerce commission, the officials of the railroads are to be notified of the facts and requested to reduce them or make the proper correction as the case may be. When the rates are not changed or the proper corrections are not made, according to the request of commission, the latter is instructed to notify the interstate commerce commission, and to apply to it for relief. *Acts 1907, no. 422, sec. 2.*

FLORIDA

Commission shall investigate thoroughly all through freight rates from points out of to points in the state,
1217 both those now fixed and those that may hereafter be fixed. *Gen. Stats. 1906, sec. 2898.*

Whenever commission finds that a through rate charged into or out of the state is, in its opinion, excessive or unreasonable or
1218 discriminating in its nature, it shall call the attention of the rail-

road officials in the state to the fact and urge upon them the propriety of changing such rate or rates. *Same.*

1219 Whenever such are not changed according to the suggestion of commission, it shall present the facts, whenever it can be done, to the interstate commerce commission and appeal to it for relief. *Same.*

1220 In all work devolving upon commission prescribed by this act it shall receive upon application the services of the attorney general of the state, and he shall also represent it whenever called upon to do so before the interstate commerce commission, and he may employ special counsel to assist him whenever he and commission may deem it necessary, and at such compensation as he and commission may agree upon. *Same.*

1221 Commission shall investigate all through rates from points out of to points in the state and all rules and regulations made by transportation companies engaged in interstate business, both those now fixed and those that may hereafter be fixed. *Same, sec. 2925.*

1222 Whenever any such transportation company shall charge a through rate into or out of the state or shall make any rule or regulation which in the opinion of commission is excessive, unjust, unreasonable or discriminating in its nature, commission shall call the attention of the officers of the offending company to the fact, and urge upon them the propriety of changing such rates, rules or regulations. *Same.*

1223 Whenever such rates, rules or regulations are not changed according to the suggestion of commission, commission shall present the facts to the interstate commerce commission and appeal to it for relief. *Same.*

1224 In all work devolving upon commission prescribed herein it shall receive upon application the services of the attorney general of the state, and he shall also represent it whenever called upon to do so before the interstate commerce commission, and he may employ such special counsel to assist him as he and commission may agree upon, whenever he or commission may deem it necessary, and at such compensation as he and commission may agree upon and commission may employ special counsel to assist him whenever it may deem it necessary, and at such compensation as he and commission may agree upon. *Same.*

GEORGIA

Commission shall investigate thoroughly all through freight rates from points out of to points in the state, and 1225 from points in to points out of the state. *Code 1911, sec. 2645.*

Also provisions identical with pars. 1218, 1219. *Same, secs. 1226 2646, 2647.*

In all such work devolving upon commission, it shall receive, 1227 upon application, the services of the attorney general of the state, and he shall also represent it, whenever called upon to do so, before the interstate commerce commission *Same, sec. 2648.*

INDIANA

When on the complaint of any interested person or corporation, commission shall, on the investigation of such complaint be convinced that the freight rates on any railroad, engaged in interstate commerce are excessive or levied or laid 1228 in violation of the interstate commerce law or the rules and regulations of the interstate commerce commission the superintendent, agent or other official of the said railroad companies shall be notified in writing of the facts and requested to reduce or correct them, as the case may be. *Acts 1907, ch. 241, sec. 10(c).*

When the rates are not changed or the proper corrections are not made according to the request of commission, the latter 1229 may notify the interstate commerce commission and apply to it for relief. *Same.*

IOWA

Commission shall exercise constant diligence in informing itself of the rates, charges, rules and practices of 1230 common carriers engaged in the transportation of freight from points in the state to points beyond its limits, and from points in other states to points in the state, also in territory wholly outside the state. *Code 1897, sec. 2120(a).*

Whenever it shall come to the knowledge of commission either from its own investigation or by complaint made to it in any manner whatsoever that the rates charged by any common carrier on interstate business are unjust or unreasonable, or that such rates, rules or practices discriminate unjustly against the citizens, industries or interests of the state at an unreasonable 1231 disadvantage as compared with those of other states, or are levied or laid in violation of the act to regulate commerce, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission shall immediately call the attention of the officials of railroads operating in the state to the fact and urge upon them the propriety of changing such rate or rates, rules or practices. *Same.*

Whenever such rates, rules or practices are not changed or adjusted so as to remove or remedy such discrimination within a reasonable time, commission shall, whenever it can be legally

1232 done, present the facts involved in such discrimination, to the interstate commerce commission and appeal to it for relief. *Same, sec. 2120(b).*

Thereafter if deemed necessary by commission, it shall
1233 prosecute any charge or charges growing out of any such discrimination at the expense of the state before said interstate commerce commission. *Same.*

1234 Also a provision identical with par. 1227. *Same, sec. 2120(c).*

KANSAS

Commission shall investigate all through
1235 freight rates on railroads in the state. *Gen. Stats. 1909, sec. 7173.*

When the same are in the opinion of commission excessive, or levied in violation of the interstate commerce law or the rules
1236 and regulations of the interstate commerce commission, the officials of such railroad shall be notified of the facts and requested to reduce the rates or make the proper corrections, as the case may be. *Same.*

When the rates are not changed or the proper corrections
1237 are not made, according to the request of commission, the latter shall notify the interstate commerce commission, and apply to it for relief by filing a complaint. *Same.*

All cases commenced before the interstate commerce commission under the authority conferred by this section shall be
1238 brought in the name of the Board of Railroad Commissioners of the State of Kansas, by the attorneys for commission, and all such cases shall be prosecuted at the expense of the state. *Same.*

Commission may intervene in any case pending before the interstate commerce commission in which interstate rates affecting the interests of Kansas shippers are involved. *Same, sec. 7253.¹*

If any interstate rate, joint rate, fare, toll, charge, rule or regulation, classification or schedule of rates, joint rates, fares or tolls, is found to be unjust, unreasonable, excessive, unjustly discriminatory, or unduly preferential, or in violation of the interstate commerce law, or in conflict with the rules, orders or regulations of the interstate commerce commission, commission may apply by petition or other proper method to the interstate commerce commission for relief. *Laws 1911, ch. 238, sec. 43.*

KENTUCKY

Commission shall examine all through freight
1241 rates from points out of to points within the state. *Carroll's Stats. 1909, sec. 826.*

¹ Said commission is hereby empowered and directed to pay all expense of investigation and prosecution of litigation instituted under the provisions of this act out of the contingent undof said commission. *Gen. Stats. 1909, sec. 7254.*

1242 Also a provision identical with par. 1218. *Same.*

When such rates are not changed commission shall present
1243 the facts to the interstate commerce commission and appeal for
relief. *Same.*

Commission shall receive upon application the services of the
1244 attorney general of the state. *Same.*

LOUISIANA Commission shall appear through any of its
commissioners or its secretary or by duly authorized attorney
before the interstate commerce commission at Washington, D.
1245 C., or at any other place where the said interstate commerce
commission might be holding a session whenever in the judgment
of commission the interests of shippers or consignees in the state
may require it. *Stats. 1906, no. 195, sec. 1.*

MARYLAND Commission may investigate freight rates on
1246 interstate traffic of common carriers within the state. *Laws*
1910, ch. 180, sec. 29.

When such rates are, in the opinion of commission, excessive
or discriminatory, or are levied or laid in violation of the inter-
state commerce law, or in conflict with the rulings, orders or regu-
lations of the interstate commerce commission, commission may
1247 apply by petition to the interstate commerce commission, for
relief, or may present to the interstate commerce commission all
facts coming to its knowledge, as to violations of the rulings,
orders or regulations of that commission, or as to violations of the
interstate commerce law. *Same.*

MINNESOTA Whenever in any proceeding pending before
commission relating to or involving the reasonableness of rates,
fares, charges or classifications, commission shall decide that it
has not jurisdiction for the reason that the traffic covered by such
rates, fares, charges and classifications is interstate commerce, it
shall make an order dismissing the proceeding, stating therein
1248 the ground of such dismissal, which order may be appealed from
in like manner as other appealable orders of commission. And if
in any such proceeding, one of the commissioners shall dissent
from the order of dismissal, the question of its jurisdiction shall be
certified to the district court of a county to which an appeal
might be taken, and thereupon commission shall notify all parties
to the proceeding of such certification, stating the county and
date thereof. *Rev. Laws 1905, sec. 1973.*

Whenever a resident of the state shall file with commission a
petition directed to the interstate commerce commission charging

any railroad company or other common carrier engaged in interstate transportation of freight with any violation of the interstate commerce act, setting forth in such petition the facts constituting such violation, commission, if it deems the matter one of public interest, shall file the petition with the interstate commerce commission and thereupon shall appear in said matter in the place of said petitioner and thereafter prosecute the same at the expense of the state. *Laws 1905, ch. 279, sec. 1.*

Whenever any matter shall be pending before the interstate commerce commission, between a resident of the state as petitioner and any railroad company or other common carrier engaged in interstate transportation of freights, charging such carrier with any violation of said interstate commerce act, upon application of the petitioner in said matter commission, in case it deems the questions involved in said matter of public interest, may appear therein and be substituted as a party in place of such petitioner and thereafter such matter shall be prosecuted by commission at the expense of the state in the same manner as though originally begun by it. *Same, sec. 2.*

MISSISSIPPI All rates fixed or revised by commission on the interstate traffic of interstate lines shall be advisory only as to them. *Code 1906, sec. 4842.*

MISSOURI Commission shall exercise constant diligence in informing itself of the rates and charges of common carriers engaged in the transportation of freight from points in the state to points beyond its limits and from points in other states to points in the state. *Rev. Stats. 1909, sec. 3253.*

Whenever it shall come to the knowledge of commission, by complaint made to it or in any other manner, that the rates charged by any such common carrier on interstate business are unjust, excessive or unreasonable, or that such rates discriminate against the citizens of this state, commission shall cause the fact thereof to be embodied in a complaint setting forth, in detail, the respect in which the rates complained of are unjust, excessive or unreasonable, and shall file said complaint with the interstate commerce commission and demand a hearing thereof and shall thereafter furnish testimony in support thereof, and diligently present the facts upon which complaint is based. At the time of filing such complaint, commission shall give notice thereof to the attorney general who shall prosecute the same to final determination before the said interstate commerce commission. *Same.*

MONTANA

Commission may entertain and hear complaints made by any shipper to the effect that unjust discrimination is being made as against the state or any point therein in the way of rates for the transportation of freight or passengers from points without to points within the state and vice versa. *Rev. Codes 1907, sec. 4375.*

Where it appears that the interstate commerce commission law has been violated, commission shall make complaint to the interstate commerce commission and aid such commission in any investigation it may make concerning violations of the United States law, by furnishing evidence and in any manner which may seem best suited to enforce both the United States and the state law, and to protect the interests of the people. *Same.*

NEW MEXICO

Commission shall exercise constant diligence in informing itself of the rates and charges of transportation and transmission companies and common carriers engaged in the transportation of passengers and property from points in the state to points beyond its limits, and from points in other states to points in the state. *Const., art. xi, sec. 9.*

Whenever it shall come to the knowledge of commission, by complaint or in any other manner, that the rate charged by any transportation or transmission company or common carrier, on interstate business is unjust, excessive or unreasonable, or that such rates discriminate against the citizens of the state, and in the judgment of commission such complaint is well founded and the public welfare involved, commission shall institute and prosecute to a final determination before the interstate commerce commission or commerce court or any lawful authority having jurisdiction in the premises, such proceedings as it may deem expedient to obtain such relief as conditions may require. *Same.*

NEW YORK

Commission may investigate interstate freight or passenger rates or interstate freight or passenger service on railroad roads within the state. *Laws 1910, ch. 480, sec. 59.*

Also a provision identical with par. 1247. *Same.*

NORTH CAROLINA

Upon the complaint of any person or community to commission of any unjust discrimination or unjust or unreasonable rate in carrying freight which comes from or goes beyond the boundaries of the state by any railroad company, commission shall investigate such complaint, and if the same be sustained commission shall bring such complaint before the interstate commerce commission for redress in accordance with the

provisions of the act of congress establishing the interstate commerce commission. *Pell's Revisal 1908, sec. 1110.*

Commission shall receive upon application the service of the attorney general of the state and he shall represent it before the interstate commerce commission. Commission shall have authority to employ counsel whenever and for such periods of time as in its judgment it is necessary to do so, and counsel so employed shall be paid such fee and compensation as may be agreed upon by it. *Same.*

NORTH DAKOTA Commission shall exercise constant diligence in informing itself of the rates, charges, rules and practices of common carriers engaged in the transportation of freight, express, and passengers and in the transmission of messages or intelligence from points in the state to points beyond its limits, and from points in other states to points in the state, also in territory wholly outside of the state. *Laws 1911, ch. 240, sec. 2.*

Also provisions substantially identical with pars. 1231, 1232. *Same.*

Thereafter, if deemed necessary by commission, the attorney general, with such other assistance as is now provided by law, shall prosecute any charge or charges growing out of any such discrimination. *Same.*

OHIO Commission may, and on complaint shall, investigate any freight rates on interstate traffic on railroads in the state. *Code 1910, sec. 563.*

If in its opinion they are excessive or discriminatory or are levied in violation of the interstate commerce law, or in conflict with the rulings, orders or regulations of the interstate commerce commission, it shall present the facts to the railroad with the request to make such changes as commission may advise. *Same.*

If such changes are not made within a reasonable time, commission shall apply by petition to the interstate commerce commission for relief. *Same.*

All freight tariffs issued by any such railroad relating to interstate traffic in the state shall be filed in the office of commission when issued. *Same.*

OKLAHOMA Commission shall investigate all through freight or passenger rates on railroads in the state. *Const., art. ix, sec. 32.*

1270 Also provisions substantially identical with pars. 1236, 1237.
Same.

The attorney general or such other persons as may be designated by law shall represent commission in all such matters.
1271 *Same.*

OREGON Commission shall investigate all freight rates
1272 on interstate traffic on railroads in the state. *Gen. Laws 1907, ch. 53, sec. 47.*

1273 Also provisions identical with pars. 1266, 1267. *Same.*

All freight tariffs issued by any such railroad relating to interstate traffic in this state shall be filed in the office of commission within 30 days after the passage and publication of this
1274 act, and such tariffs thereafter issued shall be filed with commission when issued. *Same.*

SOUTH DAKOTA Identical with pars. 1249, 1250. *Sess. Laws 1275 1909, ch. 15, secs. 1, 2.*

TENNESSEE Provisions substantially identical with pars.
1276 1235, 1236, 1237. *Acts 1897, ch. 10, sec. 21.*

TEXAS Provisions substantially identical with pars.
1277 1235, 1236, 1237. *Sayles' Civ. Stats. 1897, art. 4571(3).*

VIRGINIA Upon the complaint of any person or persons, corporation or corporations to commission of any unjust discrimination in carrying freight which comes from, or goes beyond, the boundaries of the state by any transportation company, commission may in its discretion, and if it shall be of
1278 opinion that the public welfare requires it, investigate said complaint, and if the same be sustained commission shall bring said complaint before the interstate commerce commission for redress in accordance with the provisions of the act of congress establishing said interstate commerce commission. *Pollard's Code 1904, sec. 1294c(1).*

Commission shall receive upon application the services of
1279 the attorney general of the state, and he shall represent it before the interstate commerce commission. *Same.*

WASHINGTON Commission shall investigate all interstate rates, fares, charges, classifications or rules or practices in relation
1280 thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversations, where any act in relation thereto shall take place within the state. *Laws 1911, ch. 117, sec. 58.*

1231 Also a provision substantially identical with par. 1247.
Same.

WISCONSIN Identical with pars. 1272, 1266, 1267, 1274.
1232 *Laws 1905, ch. 362, sec. 1797-21.*

2. *Emergency Rates.*

ALABAMA Commission, when deemed by it necessary to prevent injury to business, or in the interest of the people or this state, in consequence of any interstate rate wars, inequality of interstate rates or in case of any other emergency to be judged
1233 by commission, may temporarily alter, amend or suspend any existing passenger rates, freight rates, schedules and orders on any railroad or part of railroad. *Code 1907, sec. 5721.*

Such rates made by commission shall apply on one or more of the railroads, or any portion thereof, as may be directed by
1234 commission, and shall take effect at such time and remain in force for such length of time as may be prescribed by commission. *Same.*

Commission may, upon its own motion, or upon the written application of any common carrier or railroad corporation, and under any rules which it may prescribe, permit, from time to time, such common carrier or railroad corporation to establish any special rate or rates for the transportation of specific com-
1235 modities in carloads from specified points or within specified zones or distances to the plants or points of destination where are located the plants of any person, firm or corporation who is now, or may hereafter be, engaged in any industrial enterprise in the state for the purpose of encouraging the establishment or aiding in the development or continued and successful operation of such industrial enterprise. *Acts 1907, sp. sess., no. 17, sec. 14½.*

Any special rate or rates so established for any particular industrial enterprise shall apply and be given all persons, firms
1236 and corporations engaged in the same enterprise within said zone or distance. *Same.*

Such special rates shall first be approved by commission and be published as it may direct, and a full, true and correct
1237 statement in writing of such special rate or rates shall, in each instance be first filed with commission, together with a sworn copy of any special contract made with the shipper with respect to such special rates, before the same shall go into effect. *Same.*

1288 Commission may at any time revoke such permission and any special rate or rates established. *Same.*

Any rate or rates so established, after the compliance with 1289 the provisions prescribed, shall be the lawful rates for the service performed and shall not be construed to be unjust or unlawful discrimination. *Same.*

When circumstances require a reduction in any rate or rates on less than statutory notice in order to permit an emergency to be met, commission, or if commission be not in session, secretary of commission, may, upon written application of a carrier and for good reason shown, authorize such carrier to make such 1290 rate or rates effective on less than statutory notice, provided a copy of the publication containing such rate or rates be filed with commission, and provided further that when such authority is granted by secretary the rate or rates so authorized shall be temporary and shall continue effective only until the next regular meeting of commission, which may approve, revoke or modify the same. *Same.*

IOWA

See par. 1878.

KANSAS

It shall be unlawful, and a violation of this act, for any railroad company to change the classification of its freights, or to raise the charges therefor, without first having obtained an order from commission permitting such; provided, that nothing in this act shall be construed to prevent the rail- 1291 roads, with the consent of commission, from declaring and making emergency rate or rates for a limited time. All notices given by commission to any railroad company may be served by delivering a copy to any station agent, clerk, treasurer or director of such corporation. *Gen. Stats. 1909, sec. 7178.*

See also par. 2119.

MINNESOTA

Upon the application of any carrier or carriers to commission, stating that they desire to put in an emergency rate for the protection of the interests of such carrier or shippers, commission may before such rate is established and without the notice and hearing required by section five, authorize the restoration of the rates existing at the time of such appli- 1292 cation and fix the time within which such restoration may be made, and the time so fixed may be extended in the discretion of commission as the circumstances of the case may require. Nothing in this act shall be held in any way to limit or modify the rights and powers of commission to investigate, inquire into,

prescribe and publish what it may deem to be just and reasonable rates, charges and classifications to govern common carriers in the state. *Laws 1905, ch. 176, sec. 6.*

MISSOURI

See par. 1881.

NEBRASKA

Commission shall when deemed by it necessary to prevent interstate rate wars and injury to the business of the citizens of the state, railway companies or common carriers
1293 or in case of any other emergency to be judged by commission, temporarily alter, amend or suspend any existing freight rates, tariffs, schedules, orders and circulars of any railway company or common carrier or part thereof, and fix freight rates where none exist. *Cobbey's Annot. Stats. 1909, as amended, sec. 10654.*

Said emergency rate or rates shall apply to any one or more or all railway companies or common carriers and shall take effect at such time and remain in force such length of time, as may be
1294 prescribed by commission; provided, that said emergency rates, tariffs, schedules, orders and circulars shall be subject to review upon a hearing before commission and courts of competent jurisdiction in the state as provided by law for other schedules of rates fixed by commission. *Same.*

See also par. 1919.

NEW MEXICO

See par. 1926.

NORTH DAKOTA

See par. 1882.

OHIO

Commission may, when deemed by it necessary to prevent injury to the business or interests of the public or any public utility in case of any emergency to be judged by com-
1295 mission, temporarily alter, amend or, with the consent of the public utility concerned, suspend any existing rates, schedules or orders relating to or affecting any public utility or part of any public utility. *Laws 1911, no. 325, sec. 34.*

1296 Also a provision for public utilities, identical with par. 1284
Same.

OKLAHOMA

See par. 1933.

OREGON

Commission may, when deemed by it necessary to prevent injury to the business or interests of the people or railroads in consequence of interstate rate wars or in case of any other emergency to be judged by commission, temporarily alter,
1297 amend or, with the consent of the railroad company concerned, suspend any existing passenger rates, freight rates, schedules and

orders on any railroad or part of railroad. *Gen. Laws 1907, ch. 53, sec. 54.*

1298 Also a provision for railroads identical with par. 1284. *Same.*

1299 Also provisions for public utilities identical with pars. 1295, 1284. *Gen. Laws 1911, ch. 279, sec. 71.*

RHODE ISLAND Commission may, when deemed by it necessary to prevent injury to the business or interest of the people or public utility in case of any emergency to be judged by commission, permit any public utility to temporarily alter, amend or suspend any existing rates, schedules and orders relating to or affecting any public utility or a part of any public utility. *Acts 1912, ch. 795, sec. 44.*

SOUTH CAROLINA *See par. 1937.*

SOUTH DAKOTA Commission may make emergency rates for the transportation of freight and express to and from fairs, expositions and public exhibitions as well as make such rates in times of great emergency or public necessity without observing the formal notices and proceedings prescribed for the fixing of other rates, and in such cases may notify the common carriers interested, by telephone or by telegraph, of the time and place when and where commission will meet for the purpose of determining such rates and rates so made shall go into effect within such time as commission, by its order, may prescribe. *Sess. Laws 1911, ch. 207, sec. 54.*

See also par. 1883.

TENNESSEE *See par. 1941.*

TEXAS Commission shall, when deemed by it necessary to prevent interstate rate wars and injury to the business or interests of the people or railroads, or in case of any other emergency to be judged of by commission, temporarily alter, amend or suspend any existing freight rates, tariffs, schedules, orders and circulars on any railroad or part of railroad and fix freight rates when none exist. *Sayles' Civ. Stats. 1897, art. 4581a.*

Said emergency rates, so made by commission, shall apply on any one or more of all the railroads or part of railroads, as may be directed by commission. *Same, art. 4581b.*

Said rates, so made, shall take effect at such time and remain in force for such length of time as may be prescribed by commission. *Same, art. 4581c.*

See also par. 1943.

• **VIRGINIA**

See par. 1949.

WISCONSIN

Identical with pars. 1297, 1284, 1295. *Laws 1905, ch. 362, sec. 1797-28; Laws 1907, ch. 499, secs. 1797m-1305 99(1), 1797m-99(2).*

3. *Rates Not Specifically Designated.*

MICHIGAN, NEVADA

Whenever, after hearing and investigation as provided in this act, commission shall find that any charge, regulation or practice affecting the transportation of passengers or property, or any service in connection therewith not herein 1304 (Nev.—hereinbefore) specifically designated, is unreasonable or unjustly discriminatory, it may regulate the same as provided in section 22 (Nev.—sections 12 and 14) of this act. *Mich.—Pub. Acts 1909, no. 300, sec. 32; Nev.—Stats. 1907, ch. 44, sec. 29.*

OHIO

If, after hearing and investigation as provided by this chapter, commission finds any charge, regulation or practice affecting the transportation of passengers or property, or any 1307 service in connection therewith, not hereinbefore specifically designated, unreasonable or unjustly discriminatory, it may regulate it as herein provided in such cases. *Code 1910, sec. 572.*

OREGON

A provision identical with par. 1306, except 1308 that “sections 28 and 30 of this act” are referred to. *Gen. Laws 1907, ch. 53, sec. 55.*

Whenever, after hearing and investigation as provided in this act, commission shall find that any rate, toll, charge, regulation or practice for, in, or affecting or relating to the transportation of persons or property by street railroad, or to production, 1309 transmission, delivery or furnishing of heat, light, water or power or the conveying of any telephone or telegraph message or any service in connection therewith not hereinbefore specifically designated, is in any respect unsafe, inadequate, unreasonable or unjustly discriminatory, it may regulate the same as provided in sections 41 to 46. *Gen. Laws 1911, ch. 279, sec. 72.*

WISCONSIN

A provision identical with par. 1306. *Laws 1310 1905, ch. 362, sec. 1797-29.*

Whenever, after hearing and investigation as provided in this act, commission shall find that any rate, toll, charge, regulation or practice for, in, or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power

1311 or the conveying of any telephone message or any service in connection therewith not hereinbefore specifically designated, is unreasonable or unjustly discriminatory, it may regulate the same as provided in section 1797m-43 to 1797m-51 and 1797m-60 to 1797m-62, inclusive. *Laws 1907, ch. 499, sec. 1797m-100.*

F. AUTHORITY OF COMMISSION AND DUTY OF UTILITIES WITH RESPECT TO RATES AND CHARGES IN EFFECT ON A DAY DESIGNATED BY LAW.

ARIZONA, CALIFORNIA

The rates, tolls, rentals and charges shown on the schedules when filed by a public service corporation¹ as to which commission by this act acquires the power to fix any rates, tolls, rentals or charges, shall not within any portion of the territory as to which commission acquires as to such public service corporation¹ such power, exceed the rates, tolls, rentals or charges in effect February 14, 1912 (Cal.—October 10, 1911); the rates, tolls, rentals or charges shown on such schedules when filed by 1312 any public service corporation as to any territory as to which commission does not by this act acquire as to such public service corporation¹ such power, shall not exceed the rates, tolls, rentals and charges in effect at the time commission acquires as to such territory and as to such public service corporation¹ the power to fix rates, tolls, rentals or charges. Nothing in this section contained shall prevent commission from approving or fixing rates, tolls, rentals or charges from time to time in excess of or less than those shown by such schedules. *Ariz.—Sess. Laws 1912, ch. 90, sec. 14(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 14(b).*

KANSAS

Unless commission shall otherwise order, it shall be unlawful for any common carrier or public utility to 1313 demand, collect or receive a greater compensation for any service than the charge fixed on the lowest schedule of rates for the same services January 1, 1911. *Laws 1911, ch. 238, sec. 30.*

MASSACHUSETTS

Every railroad corporation which has a terminus in Boston, except the Boston, Revere Beach and Lynn Railroad Company, shall sell a commutation ticket good for not more than twenty-five trips between Boston and a station in 1314 the suburban district, so-called, which is named therein, at the

¹ "Public utility," in California.

lowest rate for each trip which was charged between said points on the first day of July in the year 1900, except the rates charged for season tickets and for tickets on workingmen's trains. *Acts 1906, ch. 463, pt. ii, sec. 183.*

MINNESOTA

See par. 954.

NEBRASKA

No railroad company shall hereafter charge, collect or receive for the transportation of any merchandise or other property upon the railroad owned or operated by such
1815 company a higher rate for such service than was charged by said company for the same or like service November 1, 1880, as shown by the published rate of such company. *Cobbey's Annot. Stats. 1909, sec. 10559.*

It shall be unlawful for any railway company or common carrier to charge, collect or receive for the transportation of live stock, potatoes, grain and grain products, fruit, coal, lumber or building material in carload lots more than 85 per cent. of the
1816 amount fixed in the classification and schedules of such railway companies or common carriers for the transportation of such property in force and effect on their various lines of railway January 1, 1907, until after commission shall have provided a greater rate upon any article or property in such schedules from the rate herein fixed. *Same, sec. 10615.*

Express companies¹ may charge and receive for the transportation of merchandise any sum not exceeding 75 per cent. of
1817 the rate as shown in the schedule in force on the first day of January, 1907, until after commission shall have provided a greater rate. *Same, sec. 11971.²*

If any express company should fail to comply with the provision and conditions of this act, they shall be fined on con-
1818 viction a sum not less than \$10 or more than \$1,000 for each offense. *Same, sec. 11973.*

Commission, and if there be no commission, then the governor with the assistance of the attorney general, are hereby
1819 empowered to enforce the provisions of this act. *Same, sec. 11974.*

¹ All persons, associations or corporations engaged in the transportation of money or merchandise for a money consideration in cars other than freight cars and on trains other than freight trains shall be deemed an express company within the meaning of this act. *Cobbey's Annot. Stats. 1909, sec. 11969.*

² Provided that nothing in this act shall be construed to change the prepaid rates on merchandise weighing one pound or less and provided further, that no provision of this act shall reduce any special contract rate in force for the transportation of cream, milk, or poultry or any charge to a sum less than 15 cents; and provided further, that nothing in this act shall abridge the authority of commission to make a reduction in any rate provided for in this act. *Same, sec. 11972.*

OREGON

The rates, fares and charges shown on schedules filed with commission by railroads which are to take effect
1320 prior to April 1, 1907, shall not exceed the rates, fares and charges shown on the schedules filed under the provisions of section 62. *Gen. Laws 1907, ch. 53, sec. 13.*

Until April 1, 1907, unless commission shall otherwise order, after application and hearing as provided, it shall be unlawful for any railroad to demand, collect or receive a greater
1321 compensation for the transportation of property than the charge fixed on the lowest published or effective schedule of rates for the same service, in force January 1, 1907. *Same, sec. 62.*

Every railroad shall within 30 days after the taking effect of this act, file in the office of commission copies of all schedules
1322 of rates, including joint rates in force on its line or lines on the first day of January, 1907, and all rates in force between such points at any time subsequent to said date. *Same.*

Any railroad desiring to advance or discontinue any such rate or rates may make application to commission in writing, stating the advance in or discontinuance of the rate or rates desired giving the reasons for such advance or discontinuation. Upon receiving such application commission shall fix the time and place for hearing and give such notice to interested parties as it shall deem proper and reasonable. If after such hearing
1323 and investigation commission shall find that the change or discontinuation applied for is reasonable, fair, and just, it shall grant the application either in whole or in part. Any railroad being dissatisfied with any order of commission made under the provisions of this section may commence a suit against it in the circuit court of the state of Oregon for Marion county in the manner provided in section 32, which suit shall be tried and determined in the same manner as is provided in sections 32, 33, 34 and 35. *Same.*

The rates, tolls and charges shown on schedules filed with commission by public utilities shall not exceed the rates, tolls
1324 and charges in force January 1, 1911. *Gen. Laws 1911, ch. 279, sec. 25.*

Except as provided in this act and unless commission shall otherwise order, it shall be unlawful for any public utility to demand, collect or receive a greater compensation for any service than the charge fixed on the lowest schedule of rates for the same service on the first day of January, 1911. Every public

utility shall, within a time to be fixed by commission, file in the office of commission, copies of all schedules of rates and charges, including joint rates, in force on the first day of January, 1911, and all rates in force at any time subsequent to said date. Any public utility desiring to advance or discontinue any such rate or rates may make application to commission in writing stating
1326 the advance in or discontinuance of the rate or rates desired, giving the reasons for such advance or discontinuation. Upon receiving such application commission shall fix a time and place for hearing and give such notice to interested parties as it shall deem proper and reasonable. If after such hearing and investigation commission shall find that the change or discontinuation applied for is reasonable, fair and just, it shall grant the application either in whole or in part. Any public utility being dissatisfied with any order of commission made under the provisions of this section may commence a suit against it in the circuit court in the manner provided in section 54, which suit shall be tried and determined in the same manner as is provided for suits brought under said section 54. *Same, sec. 77.*

SOUTH DAKOTA No express company shall charge or receive for the transportation of merchandise, money or other property, any sum exceeding 80 per cent. of the rate as shown in the
1326 schedule of January 1, 1909, until after commission has provided a different rate; provided that nothing in this act shall be construed to change any special rate in force below 15 cents. *Sess. Laws 1909, ch. 159, sec. 4.*

The schedules of maximum rates or charges prepared by commission for express companies shall not exceed 70 per cent.
1327 of the lowest rates which were in force for the transportation of express freight over any lines of railway between stations within the state on the first day of January, 1909. *Sess. Laws 1911, ch. 152, sec. 1.*

WISCONSIN The rates, fares and charges shown on schedules filed with commission by railroads which are to take effect
1328 prior to January 1, 1906, shall not exceed the rates, fares and charges on the schedules filed under the provisions of section 35 of this act. *Laws 1905, ch. 362, sec. 1797-4.*

Until December 31, 1905, unless commission shall otherwise order, after application and hearing as provided, it shall
1329 be unlawful for any railroad to demand, collect or receive a greater compensation for the transportation of property than

the charge fixed in the lowest published schedule of rates for the same service in force April 1, 1905. *Same, sec. 1797-35.*

Every railroad shall, within 30 days after the passage and publication of this act, file in the office of commission copies of all schedules of rates, including joint rates, in force on its line or lines, between points within this state, April 1, 1905, and all rates in force between such points at any time subsequent to said date. Any railroad desiring to advance or discontinue any such rate or rates may make application to commission in writing, stating the advance in or discontinuation of the rate or rates desired, giving the reason for such advance or discontinuation. Upon receiving such application commission shall fix a
1230 time and place for hearing, and give such notice to interested parties as it shall deem proper and reasonable. If, after such hearing and investigation, commission shall find that the change or discontinuation applied for is reasonable, fair and just, it shall grant the application either in whole or in part. Any railroad being dissatisfied with any order of commission made under the provisions of this section may commence an action against it in the circuit court in the manner provided in section 16 of this act, which action shall be tried and determined in the same manner as is provided in said section. *Same.*

The rates, tolls and charges shown on schedules filed with
1231 commission by public utilities shall not exceed the rates, tolls and charges in force April 1, 1907. *Laws 1907, ch. 499, sec. 1797m-27.*

Unless commission shall otherwise order, it shall be unlawful for any public utility to demand, collect or receive a greater
1232 compensation for any service than the charge fixed on the lowest schedules of rates for the same service April 1, 1907. *Same, sec. 1797m-105(1).*

Every public utility shall within 30 days after the passage and publication of this act file in the office of commission, copies
1233 of all schedules of rates and charges, including joint rates, in force April 1, 1907, and all rates in force at any time subsequent to said date. *Same, sec. 1797m-105(2)*

Any public utility desiring to advance or discontinue any such rate or rates may make application to commission in writing,
1234 stating the advance in or discontinuation of the rate or rates desired, giving the reasons for such advance or discontinuation. *Same, sec. 1797m-105(3).*

Upon receiving such application commission shall fix a time

and place for hearing and give such notice to interested parties as it shall deem proper and reasonable. If, after such hearing
1335 and investigation commission shall find that the change or discontinuation applied for is reasonable, fair and just, it shall grant the application either in whole or in part. *Same, sec. 1797m-105(4).*

Any public utility being dissatisfied with any order of commission made under the provisions of this section may commence an action against it in the circuit court in the manner
1336 provided in sections 1797m-64 to 1797m-73, inclusive, of this act, which actions shall be tried and determined in the same manner as is provided in said sections. *Same, sec. 1797m-105(5).*

G. AUTHORITY OF COMMISSION TO ALTER, AMEND OR RESCIND RATES AND CHARGES, OR ITS OWN ORDERS WITH RESPECT THERETO.

ALABAMA. Commission may from time to time alter or amend the rates, charges, classifications, rules, regulations and
1337 requirements prescribed and enforced by it against transportation companies. *Code 1907, sec. 5651.*

Commission may at any time upon notice to transportation companies and after an opportunity to be heard as provided in sections 5667 and 5668 rescind, alter or amend any order
1338 made by commission fixing any rate or rates, fares, charges or classifications or any other order made by commission, and certified copies of the same shall be served and take effect as provided for original orders. *Same, sec. 5679.*

ARKANSAS Commission shall not alter or change any tariff or charges approved by it except upon ten days' notice in writing to the person or corporation operating the express com-
1339 pany or railroad to be affected by such change, giving the same an opportunity to be heard, such notice to be by delivering a copy thereof to any officer or agent of such person or corporation. *Kirby's Digest 1904, sec. 6802.*

FLORIDA Commission shall, as often as circumstances may require, change or revise any schedule or schedules and
1340 furnish all railroad companies with notice of such changes or

revisions, and such notice shall state the time when such changes or revisions shall go into effect. *Gen. Stats. 1906, sec. 2899.*

GEORGIA Commission shall from time to time and as often as circumstances may require change and revise the
1341 schedules of charges for railroads prescribed by it. *Code 1911, sec. 2631.*

ILLINOIS A provision for railroads identical with par.
1342 1341. *Revisal 1909, ch. 114, sec. 131.*

Commission may from time to time as often as circumstances require change and revise schedules of charges for common carriers prescribed by it. It shall be proper for commission
1343 either upon its own initiative or upon complaint to enter upon a hearing for the purpose of investigating the necessity of any such revision. *Same, sec. 198.*

The rates or charges prescribed by commission for express
1344 companies may be changed or modified by said commission from time to time in such manner and to such effect as may become necessary. *Same, sec. 369.*

IOWA Commission shall from time to time and as often as circumstances may require change and revise the
1345 schedules of charges for the transportation of freight and cars prescribed by it, but the rates fixed shall not be higher than established by law. *Code 1897, sec. 2138.*

The rates and classifications established by commission for railroads or common carriers after hearing and investigation
1346 shall, from time to time thereafter, upon complaint duly made, be subject to revision by commission, the same as any other rates and classifications. *Same, sec. 2141.*

The rates or charges fixed and established by commission for
1347 express companies or express carriers may be changed or modified by commission from time to time in such manner as may become necessary. *Same, sec. 2165(b).*

KENTUCKY *See par. 923.*

MICHIGAN Commission may at any time upon application of any person or common carrier and upon at least ten days' notice to the parties interested, including the common carrier,
1348 and after opportunity to be heard as provided in section 22, rescind, alter or amend any order fixing any rate or rates, fares, charges or classifications or any other order made by commission,

and certified copies shall be served and take effect as provided for original orders. *Pub. Acts 1909, no. 300, sec. 24.*

MISSOURI Commission may reduce, change or modify
1349 any and all freight rates fixed and established by it as provided by law. *Rev. Stats. 1909, sec. 3251.*

1350 Also a provision identical with par. 1347. *Same, sec. 3288.*

MONTANA Commission may from time to time change, alter, amend or abolish any classification or rate of railroads es-
1351 tablished by it when deemed necessary, and such classifications and rates shall be put into effect in the same manner as original classifications or rates. *Rev. Codes 1907, sec. 4379.*

NEBRASKA Commission may alter, change, amend or abolish any classification or rate of common carriers prescribed
1352 by it when deemed necessary, and such amended, altered or new classifications or rates shall be put into effect in the same manner as originals. *Cobbey's Annot. Stats. 1909, sec. 10653.*

NEVADA Commission may at any time upon application of any person or any railroad and upon notice to the parties interested and after opportunity to be heard as provided in
1353 section 12, rescind, alter, or amend any order fixing any rate or rates, charges or classification or any other order made by commission, and certified copies of the same shall be served and take effect as provided for original orders. *Stats. 1907, ch. 44, sec. 14(a), as amended by Stats. 1909, ch. 121, sec. 7.*

NEW MEXICO Commission may change or alter the rates of railway, express, telegraph, telephone, sleeping car and other transportation and transmission companies and common carriers,
1354 change, alter or amend its orders, rules, regulations or determinations and enforce the same in the manner prescribed herein. *Const., art. xi, sec. 7.*

NORTH CAROLINA Commission shall from time to time and as often as circumstances may require change and revise or cause to be changed and revised any schedules of rates fixed by com-
1355 mission or allowed to be charged by any carrier of freight, passengers or express or by any telegraph or telephone company. *Pell's Revisal 1908, sec. 1106.*

NORTH DAKOTA Commission shall from time to time but not oftener than once in six months unless upon appeal from the order fixing such rate the court should modify or reverse such

order, and then only to the extent made necessary by such modification or reversal, change and revise the schedules of charges prescribed by it for companies engaged in the transportation of freight, passengers, express matter and telegraph or telephone messages. *Rev. Codes 1905, sec. 4343, as amended by Laws 1911, ch. 255, sec. 2.*

Also a provision identical with par. 1346. *Same, sec. 4346.*

OHIO

Upon application of any person or any railroad and after notice to the parties in interest, and opportunity to be heard, as provided in this chapter for other hearings, has been given commission may rescind, alter or amend an order fixing any rate or rates, fares, charges or classifications or any other order made by commission. Certified copies of such orders shall be served and take effect as provided for original orders. *Code 1910, sec. 538.*

Upon application of any person or any public utility and after notice to the parties in interest and opportunity to be heard, as provided in this act for other hearings, has been given commission may rescind, alter or amend an order fixing any rate or rates, fare, toll, charge, rental, classification or service or any other order made by commission. Certified copies of such orders shall be served and take effect as provided for original orders. *Laws 1911, no. 325, sec. 25.*

OKLAHOMA

For transportation and transmission companies a provision identical with par. 1337. *Const., art. ix, sec. 18.*

OREGON

Commission may at any time upon notice to the railroad and after opportunity to be heard as provided in section 28 of this act rescind, alter or amend any order fixing any rate or rates, fares, charges or classification or any other order made by commission, and certified copies of the same shall be served and take effect as provided for original orders. *Gen. Laws 1907, ch. 53, sec. 30.*

Commission may at any time upon notice to the public utility and after opportunity to be heard as provided in section 42 of this act rescind, alter or amend any order fixing any rate or rates, schedule of rates, tolls, charges or any other order made by commission, and certified copies of the same shall be served and take effect as provided for original orders. *Gen. Laws 1911, ch. 279, sec. 52.*

RHODE ISLAND

Commission may at any time upon notice to the public utility and after opportunity to be heard as provided

in section 20, rescind, alter, or amend any order fixing any rate,
1263 toll, charge, joint rate or rates, or any other order made by
commission, and certified copies of the same shall be served and
take effect as herein provided for original orders. *Acts 1912,*
ch. 795, sec. 33.

SOUTH CAROLINA Commission shall from time to time and as
often as circumstances may require change and revise the
schedules of charges for railroads prescribed by it. Thirty
1264 days' notice of any change or revision of the schedule of rates
shall first be given to the railroad company to be affected thereby
before the same shall go into effect. *Gen. Stats. 1902, sec. 2093.*

SOUTH DAKOTA The classification of railroads made by com-
mission may be changed from time to time as commission may
1265 order. *Rev. Pol. Code 1903, sec. 450.*

Commission shall from time to time and as often as circum-
1266 stances may require change and revise the schedules of charges
for railroads prescribed by it. *Same.*

Commission shall from time to time and as often as circum-
stances may require change and revise the schedules of charges
1267 for the transportation or transmission of passengers, freight,
cars, express and messages by telephone prescribed by it. *Sess.*
Laws 1911, ch. 207, sec. 20.

The rates, fares and classifications established by com-
mission for common carriers after hearing and investigation
1268 shall from time to time thereafter upon complaint duly made be
subject to revision by commission the same as any other rates,
fares and classifications. *Same, sec. 23.*

The classification of common carriers and of freight, express
1269 and telephone messages made by commission may from time to
time be changed by it. *Same, sec. 50.*

Commission may from time to time change rates fixed and
1270 prescribed by it for the transmission of telephone messages when
in its judgment such change is necessary. *Same, sec. 52.*

No change shall be made in any schedule of maximum rates
by commission until after reasonable notice of hearing shall have
1271 been given to the company or companies and persons interested
therein, and a hearing has been had thereon. *Sess. Laws 1909,*
ch. 289, sec. 5, as amended by Sess. Laws 1911, ch. 218, sec. 3.

TEXAS A provision for railroads substantially identical
1272 with par. 1352. *Sayles' Civ. Stats. 1897, art. 4562(8).*

Commission may at any time abolish, alter or in any manner

amend the schedules of rates for railroads prescribed by it or
1373 abolish or amend any regulation so prescribed, and in that event
certified copies of the schedules, rules or regulations showing the
changes therein shall be delivered to each road as by law specified.
Same, art. 4567.

1374 Also a provision for express companies identical with par.
1347. *Same, art. 4582.*

VIRGINIA Commission may from time to time to come
alter or amend the rates, charges, classifications, rules, regula-
1375 tions and requirements prescribed by it for transportation and
transmission companies. *Const., sec. 156(b).*

WISCONSIN Commission may at any time upon notice to
the railroad and after opportunity to be heard as provided in
section 12 rescind, alter or amend any order fixing any rate or
1376 rates, fares, charges or classification or any other order made by
commission, and certified copies of the same shall be served and
take effect as provided for original orders. *Laws 1905, ch. 362,*
sec. 1797-14(d).

Commission may at any time upon notice to the public
utility and after opportunity to be heard as provided in section
1797m-45 rescind, alter or amend any order fixing any rate or
1377 rates, tolls, charges or schedules or any other order made by
commission, and certified copies of the same shall be served and
take effect as provided for original orders. *Laws 1907, ch. 499,*
sec. 1797m-62.

H. AUTHORITY OF COMMISSION WITH RESPECT TO THE SUSPENSION OF RATES AND CHARGES.

UNITED STATES Whenever there shall be filed with commission
any schedule stating a new individual or joint rate, fare or
charge, or any new individual or joint classification, or any new
individual or joint regulation or practice affecting any rate, fare,
or charge, commission may either upon complaint or upon its own
initiative without complaint, at once, and if it so orders without
answer or other formal pleading by the interested carrier or
carriers, but upon reasonable notice, enter upon a hearing con-
cerning the propriety of such rate, fare, charge, classification,
regulation, or practice; and pending such hearing and the decision
thereon commission upon filing with such schedule and delivering

to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation or practice but not for a longer period than 120 days beyond the time when such rate, etc., would otherwise go into effect; and after full hearing, whether completed before or after the rate, etc., goes into effect, commission may make such order in reference to such rate, etc., as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, or practice had become effective: Provided, that if any such hearing cannot be concluded within the period of suspension, as above stated, commission may, in its discretion, extend the time of suspension for a further period not exceeding six months. At any hearing involving a rate increased after January 1, 1910, or of a rate sought to be increased after the passage of this act, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the common carrier, and commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. *Act to Regulate Commerce, sec. 15.*

ARIZONA, CALIFORNIA

Whenever there shall be filed with commission any schedule stating an individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, not increasing or resulting in an increase in any rate, fare, toll, rental or charge, commission may either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public service corporation or corporations,¹ but upon reasonable notice, enter upon a hearing concerning the propriety of such rate, etc., and pending the hearing and the decision thereon such rate, etc., shall not go into effect; provided, that the period of suspension of such rate, etc., shall not extend beyond 120 days beyond the time when such rate, etc., would otherwise go into effect unless commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing commission shall establish the rates, etc., proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. All such rates, etc., not so suspended

¹ "Public utilities," in California.

shall, on the expiration of 30 days from the time of filing the same with commission, or of such lesser time as commission may grant, go into effect and be the established and effective rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules and regulations subject to the power of commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same. *Ariz.—Sess. Laws 1912, ch. 90, sec. 63(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 63(b).*

ILLINOIS

Commission may, upon complaint or upon its own motion, suspend the taking effect of any schedule or
1330 classification as provided in section four¹ of this act, pending inquiry as to its correctness or the reasonableness of the rates contained in it. *Revisal 1909, ch. 114, sec. 370.*

Commission shall take cognizance of all contracts, agreements, schedules, tariffs, rates, classifications, rules and regulations and in the event of anything found contained in them or either of them deemed injurious to or inconsistent with the public welfare or which may work to the detriment of the public, communities, or individuals, commission shall cause the same to be immediately inquired into, either upon complaint or upon its own motion and initiative without complaint, as may be deemed proper by commission, and it may suspend for a period of not more than four months, pending inquiry, the taking effect of any such classification, schedule of rates, charges, tariffs, agreements, rules or regulations. The express company or carrier by express affected shall be forthwith notified and full hearing of the
1331 cause had promptly, as in other proceedings before commission, and all interested express companies or carriers by express and other persons interested may be made parties. If commission is of the opinion after such hearing and investigation that the schedules of rates, charges, tariffs, agreements or classification as filed or published, or the privileges, facilities and regulations published in connection therewith are unjust or unreasonable or otherwise discriminatory or prejudicial, or in violation of law, it shall determine what is and will be reasonable and just and shall prescribe the same, and shall order such express company or carrier by express to file with commission and publish on or before a certain day, to take effect on a certain day, schedules of charges, classification, tariff, rules or regulations in accordance with the findings and decision of commission. *Same, sec. 371.*

¹ *Revisal 1909, ch. 114, sec. 371.*

INDIANA

A provision substantially identical with par. 1378. The right to suspend applies to any schedule stating "a new individual or joint rate or charge or any new individual or joint classification or any new individual or joint regulation or
1382 practice affecting any rate or charge." The original period of suspension is 30 days. The additional period of suspension is 30 days. The only time mentioned in the last sentence is the time of the passage of the act. *Acts 1911, ch. 186, sec. 1.*

MICHIGAN

Upon the filing with commission by a common carrier of any tariff or supplement showing any change in rates, fares or charges or joint rates, fares or charges or a discontinuance of any rate or rates, fares or charges or joint rates, fares or charges, commission may acting upon its own initiative or upon complaint postpone the date when such new rate or rates or joint rates, fares or charges or discontinuance of rate or rates or joint rates, fares or charges, shall become effective to such time not to exceed in all 45 days as shall give commission opportunity
1383 to investigate the reasonableness of such proposed rate or rates or discontinuance of rate or rates, and commission may thereupon proceed with all convenient speed with an investigation upon at least five days' notice to said common carrier, either upon its own initiative or upon complaint as to the reasonableness of said rate or rates, follow the procedure as near as may be, and make its order in the manner provided in section 22 of this act, such investigation to take precedence of all matters of a different nature pending before the commission. *Pub. Acts 1911, no. 139, sec. 10(b).*

NEW HAMPSHIRE Whenever any schedule shall be filed with the commission under paragraph (b) of this section stating new and higher rates, fares, charges or prices, which the railroad corporation or public utility filing the same purposes to put into force, commission may investigate the reasonableness of such proposed rates, fares, charges or prices. Pending any such investigation and the decision thereon, commission may, by an order served
1384 upon the railroad corporation or public utility affected, suspend said schedule, and forbid the demanding or collecting of the rates, fares, charges or prices, covered by the schedule for such period or periods not to exceed six months in all as in the judgment of commission may be necessary for such investigation. *Laws 1911, ch. 264, sec. 7(c).*

NEW JERSEY

When any public utility shall increase any existing individual rates, joint rates, tolls, charges or schedules thereof, as well as commutation, mileage and other special rates, or change or alter any existing classification, commission may either upon written complaint or upon its own initiative hear and determine whether the said increase, change or alteration is just and reasonable. The burden of proof to show that the said increase, change or alteration is just and reasonable shall be upon the public utility making the same. Commission may pending such hearing and determination order the suspension of the said increase, change or alteration until commission shall have approved said increase, change or alteration, not exceeding three months. Commission shall approve any such increase, change or alteration upon being satisfied that the same is just and reasonable. *Laws 1911, ch. 195, sec. 17(h).*

SOUTH DAKOTA

A provision substantially identical with the United States provision. Commission is authorized to enter upon a hearing concerning the "propriety or reasonableness" of the rates contained in the schedule. Notice to the carriers shall be by "delivering or mailing to the agents or officers of the carrier or carriers designated in section 20 of this act affected thereby a statement in writing of its reasons therefor." The last sentence reads: At any hearing involving an increase in the rates, fares or charges for transportation of passengers, property, express or messages by telephone, the burden of proof to show that the increased rate or proposed rate is just and reasonable, shall be upon the common carrier and commission shall give preference to the hearing and determination of such question and decide the same as soon as possible. *Sess. Laws 1911, ch. 207, sec. 21.*

WASHINGTON

Whenever any public service company shall file with commission any schedule, classification, rule or regulation, the effect of which is to increase any rate, fare, charge, rental or toll theretofore charged, commission may, either upon its own motion or upon complaint, upon notice, enter upon a hearing concerning such proposed increase and the reasonableness and justness thereof, and pending such hearing and the decision thereon commission may suspend the operation of such rate, fare, charge, rental or toll for a period of 90 days from the time the same would otherwise go into effect, and after a full hearing commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective; Provided, that if any such hearing cannot be

concluded within the period of suspension, as above stated, commission may, in its discretion, extend the time of suspension for a further period not exceeding 60 days. If commission shall at the conclusion of the hearing refuse to permit such increase, either in whole or in part, no supersedeas shall be granted in any action or proceeding brought to review the order of commission pending the final determination of such action by the superior court or, if appealed to the supreme court, by such supreme court. *Laws 1911, ch. 117, sec. 82.*

WISCONSIN

Whenever any person, firm, corporation, or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, lodges a complaint with commission before any change or changes in any schedule, including schedule of joint rates, or in any classification, rule, regulation or practice, become effective as in this section provided to the effect that such change or changes are unreasonable or unjustly discriminatory, commission shall give notice to the railroad or railroads complained of that complaint has been made, and proceed to investigate the same and order a hearing thereon in the manner provided for hearings in section 1797-12; and commission may, in its discretion, stay such change or changes pending such investigation and the determination of the matters investigated by issuing an order to that effect at any time before said change or changes shall take effect as in this section provided. If upon such investigation the change or changes 1398 complained of shall be found unreasonable or unjustly discriminatory such change or changes shall not take effect if the same have been stayed and in case no such stay has been ordered and such change or changes have become effective pending such investigation commission may order the discontinuance of such change or changes. Commission may upon such investigation fix and order substituted for any such change or changes such rate or rates, joint rate or rates, fares, charges, classification, rule, regulation, practice or service, as the case may be, as it shall have determined to be just and reasonable and which shall be charged, imposed or followed in the future, and may make such orders respecting such rule, regulation, practice or service as it shall have determined to be reasonable and which shall be observed and followed in the future. Commission may exercise all the powers granted it by this section, of its own motion without formal complaint being filed by anyone. *Laws 1905, ch. 362, sec. 1797-4(e), as amended by Laws 1909, ch. 335.*

I. VALIDITY OF RATES AND CHARGES PRESCRIBED BY COMMISSION AND PERIOD OF ENFORCEMENT.

UNITED STATES All orders of commission except orders for the payment of money shall take effect within such reasonable time not less than 30 days and shall continue in force for such period of time not exceeding two years as shall be prescribed in the order of commission unless the same shall be suspended or modified or set aside by commission or by a court of competent jurisdiction. *Act to Regulate Commerce, sec. 15.*

ALABAMA All rates, charges, classifications, rules and regulations adopted or acted upon by any transportation company inconsistent with those prescribed by commission or inconsistent with those prescribed by any statute, shall be unlawful. *Code 1907, sec. 5651.*

All rates, fares, charges, classifications and joint rates and orders establishing rules, regulations, practices, or services fixed by commission shall be in force and shall be deemed prima facie reasonable and valid in any court wherein is properly drawn in question the reasonableness or validity thereof, and the burden shall be upon the party attacking said rates or orders to show that the same are invalid or unfair and unreasonable. *Same, sec. 5683.*

ARKANSAS In all actions between private parties and railroad companies brought under the law establishing a railroad commission and defining its powers and duties, the rates, charges, orders, rules, regulations and classifications prescribed by commission before the institution of such action shall be held, deemed and accepted to be reasonable, fair and just, and in such respects shall not be controverted therein. *Kirby's Digest 1904, sec. 6809.*

COLORADO Identical with par. 1389, except that "all orders of commission except orders for the payment of money" reads "all orders of commission." *Laws 1910, sp. sess., ch. 5, sec. 15.*

FLORIDA The schedule of rates furnished by commission, certified by the chairman of commission, shall be admitted in evidence without necessity for other proof, and shall in all suits brought against any railroad corporation wherein is in-

1394 involved the rates of any such railroad corporation for the transportation of freight of any description, or charges for the transportation or use of any kind of car upon the tracks of any railroad or any of the branches thereof, or for transportation of any passenger or passengers or for any unjust discrimination in relation thereto, be deemed and taken in all courts of the state as prima facie evidence that the rates fixed in such schedule are just and reasonable. *Gen. Stats. 1906, sec. 2899.*

1395 All the rules and regulations made and prescribed by commission for the transportation of persons and property on the railroads subject to the provisions of this act, or to prevent unjust discrimination or other abuses by them, shall be deemed and held to be prima facie reasonable and just and are made prima facie evidence in the same manner the schedules are made prima facie evidence. *Same, sec. 2903.*

GEORGIA

The schedules of rates for railroad corporations made by commission shall in suits brought against such corporations wherein is involved the charges of any such corporation for the transportation of any passengers or freight or cars or unjust discrimination in relation thereto, be deemed and taken in all courts of the state as sufficient evidence that the rates therein fixed are just and reasonable. *Code 1911, sec. 2631.*

1397 Schedules prepared by commission shall not be taken as evidence, as herein provided, until schedules have been prepared and published for all the railroad companies now organized under the laws of the state or that may be organized at the time of the said publication. All schedules purporting to be printed and published as provided by law shall be received and held in all such suits as prima facie the schedules of commission without further proof than the production of the schedules desired to be used as evidence with a certificate of commission that the same is a true copy of the schedule prepared by it for the railroad company or corporation therein named, and that the same has been duly published as required by law. *Same, sec. 2632.*

ILLINOIS

The schedules made for railroad corporations (common carriers) by commission shall in all suits brought against such railroad corporations (common carriers) wherein is in any way involved the charges of any such railroad corporation (common carrier) for the transportation of any passenger or freight or cars or unjust discrimination in relation thereto, be deemed and taken in all courts of the state as prima facie evidence

that the rates therein fixed are reasonable maximum rates. *Revisal 1909, ch. 114, sec. 131 (railroad corporations), sec. 198 (common carriers).*

1399 All schedules shall be received and held in all such suits as prima facie the schedules of commission without further proof than the production of the schedules desired to be used as evidence with a certificate of commission that the same is a true copy of a schedule prepared by it for the railroad company or corporation (common carrier) therein named. *Same.*

IOWA

The schedules of reasonable maximum rates of charges for the transportation of freight and cars together with the classification of such freight now in effect shall remain in force until changed by commission according to law. *Code 1897, sec. 2138.*

1401 In all actions brought against railway corporations (express companies) wherein there are involved the charges thereof for the transportation of any freight or cars (or property, in the case of express companies) or any unjust discrimination in relation thereto, the schedules of reasonable maximum rates of charges made by commission shall be taken as prima facie evidence in all courts that the rates fixed therein are reasonable and just maximum rates. *Same, sec. 2138 (railway corporations) sec. 2165(c) (express companies).*

When a printed copy of the schedule of rates revised by commission is certified by commission as a true copy prepared by it for the railway company or corporation therein named and that 1402 notice thereof has been published as required by law, it shall be received in evidence in all actions as prima facie the schedule of commission. *Same, sec. 2138.*

All decisions of commission with respect to rates entered on record of commission including any schedules and classifications fixed and determined by commission shall, when duly authenticated, be received and held in all suits brought against any 1403 railroad corporation or common carrier wherein is in any way involved the charges of any such corporation or common carrier mentioned in said decisions in any of the courts of the state as prima facie evidence that the rates therein fixed are reasonable maximum rates the same as the schedule made by commission as provided in section 2138. *Same, sec. 2141.*

KANSAS

Rates for water fixed by commission shall be 1404 binding upon the irrigation companies for one year from the date

of commission's decision and until the further order of commission. *Gen. Stats. 1909, sec. 4477.*

All orders, regulations, practices, services, rates, fares, charges, classifications, tolls and joint rates fixed by commission shall be in force and effect on and after 30 days from the making
1405 thereof and expiration of 30 days after service aforesaid, shall be prima facie reasonable unless or until changed or modified by commission or in pursuance of proceedings instituted in court as provided, in this act. *Laws 1911, ch. 238, sec. 18.*

All findings, rates, joint rates, fares, tolls, charges, rules, regulations, classifications and schedules fixed and established by commission shall be in full force and effect and all regulations,
1406 practices, services and acts prescribed or required by commission to be done or carried into effect unless otherwise found and determined or stayed by a court of competent jurisdiction. *Same, sec. 19.*

See also pars. 915, 916.

LOUISIANA

Every order or decision of commission, fixing and establishing a rate or charge for the transportation of passengers or freight, or for the transmission of messages or conversations by telephone or telegraph, within the state, shall go into
1407 effect at such times as may be fixed by commission, and shall remain in effect and be complied with unless and until set aside by commission, or by a final judgment of a court of competent jurisdiction, rendered on final trial in a suit to set aside and annul the same. *Const., art. 286.*

All orders of commission made and entered upon its records, respecting rates, charges, rules, regulations and classifications, affecting any railroad, express, telephone, telegraph, steamboat, or other water craft, or sleeping car company, or other individual, corporation or carrier, or requiring the performance of any act by
1408 any such railroad, express, telephone, telegraph, steamboat, or other water craft, or sleeping car company, or other individual, company or corporation, shall be operative and in full force and affect from and after the time fixed for the same to become effective by commission, unless such orders be thereafter changed, altered, modified, or set aside by a court of competent jurisdiction. *Stats. 1908, no. 171, sec. 1.*

MARYLAND

The price fixed by commission shall be the maximum price to be charged by any person or corporation for gas or electricity in any municipality or county until commission

shall upon complaint as provided in this section or by the corporation interested or upon its application for a new adjustment of rates or upon an investigation conducted by commission on its own motion, again fix the maximum price according to law of such gas or electricity. *Laws 1910, ch. 180, sec. 37.*

See also par. 929.

MASSACHUSETTS Orders of commission relative to the price of gas or electricity shall be binding upon all parties until further order of commission. *Rev. Laws 1902, ch. 121, sec. 35.*

MICHIGAN The price fixed by commission for electricity, of which the corporation shall have notice, shall be the maximum price in any municipality until commission shall upon like complaint or upon the complaint of the person, firm or corporation engaged in furnishing such electricity, again fix the maximum price to be charged therefor. *Pub. Acts 1909, no. 106, sec. 7.*

When there are two or more rates in effect between the same points via the same route, the lowest published rate shall be the only legal rate applicable in the state. In the event a published through rate exceeds any combination of two or more local rates between the same points within the state the combination forming the lowest rate shall govern. *Pub. Acts 1909, no. 300, sec. 9.*

All rates, fares, charges, classifications and joint rates fixed by commission and all regulations, practices and services prescribed by commission shall be in force and shall be prima facie lawful and reasonable until finally found otherwise in an action brought for the purpose pursuant to the provisions of section 26 of this act or until changed or modified by commission as provided for in section 24 of this act. *Pub. Acts 1911, no. 139, sec. 25.*

MINNESOTA The tariff made by commission shall be deemed prima facie reasonable in all courts and shall be in full force during the pendency of any appeal or other proceedings to review the action of commission in establishing the same. *Rev. Laws 1905, sec. 1969.*

The rates established under proceedings instituted on motion of commission shall be in force during the pendency of any appeal or other proceedings to review the action of commission. *Same, sec. 1970.*

See also par. 959.

MISSOURI A copy of the schedules made by commission certified by the secretary of commission shall, in proceedings

1416 wherein is involved the reasonableness and justness of the charges and rates of commission, be prima facie evidence that the rates therein fixed are reasonable and just. *Rev. Stats. 1909, sec. 3189.*

NEBRASKA

The schedules of rates and charges fixed and prescribed by commission shall go into effect not less than 30 days nor more than 60 days within the discretion of commission, after the same have been completed and copies thereof mailed to the railway companies and common carriers affected thereby, 1417 and any or all rates therein contained shall be and remain in force and effect from and after said time unless modified, annulled or otherwise revised either in whole or in part by commission upon a hearing with respect thereto or until such rate or rates are finally adjudged to be unreasonable and unjust in a court of competent jurisdiction. *Cobbey's Annot. Stats. 1909, sec. 10653.*

A copy or copies of the schedule of rates and charges fixed and prescribed by commission when duly authenticated shall be received in evidence in all courts in the state without further 1418 proof as prima facie evidence that the rates therein contained are those fixed by commission and that said rates are prima facie just and reasonable. *Same.*

The decision of commission affirming, revising, annulling or modifying any or all rates complained of in the original schedule or in any subsequent schedule under investigation when duly authenticated shall be received in all suits brought against any railway company or common carrier or in any appeal prosecuted 1419 by any railway company or common carrier from said decision wherein is in any way involved the charges of any such railway company or common carrier in any of the courts of the state as prima facie evidence that the rates therein fixed are just and reasonable, the same as the original schedule made by commission. *Same, sec. 10653(c).*

Any rate or rates that have been revised or modified in schedule form and the schedules of any and all rates so modified or revised on hearing shall be in force and effect 30 days after the decision of commission was mailed to the railroad company, 1420 common carrier, person or persons or corporations affected thereby, and shall continue so until further modified, revised or annulled by commission or finally adjudged to be unreasonable and unjust. *Same, sec. 10653(d).*

See also par. 1140.

NEVADA

All rates, fares, charges, classifications and joint rates fixed by commission shall be in force and shall be prima facie lawful until changed or modified by commission or in pursuance of section 16 of this act. All regulations, practices and services prescribed by commission shall be in force and shall
1421 be prima facie reasonable unless suspended or found otherwise in an action brought for that purpose pursuant to the provisions of section 16 of this act or until changed or modified by commission as provided for in paragraph a, section 14 of this act. *Stats. 1907, ch. 44, sec. 15, as amended by Stats. 1909, ch. 121.*

All rates fixed by commission shall be deemed reasonable
1422 and just and shall remain in full force and effect until final determination by the courts upon appeal. *Same, sec. 16.*

All rates, fares, charges, classifications and joint rates fixed by commission shall be enforced and shall be prima facie lawful from the date of the order until changed or modified by commission or in pursuance of section 26 of this act. All regula-
1423 tions, practices and service prescribed by commission shall be enforced and shall be prima facie reasonable unless suspended or found otherwise in an action brought for that purpose pursuant to the provisions of section 27 of this act or until changed or modified by commission itself upon satisfactory showing made. *Stats. 1911, ch. 162, sec. 25.*

NEW HAMPSHIRE The rates, fares and charges fixed and allowed by commission to be charged and collected by any railroad corporation and the charges allowed by it to be charged by any public utility shall be the rates, fares, charges or prices to be charged by the railroad corporation or by the public utility
1424 affected by the order of commission fixing the same for such period of time not exceeding two years as shall be prescribed in the order of commission unless the same shall be suspended or set aside by a court of competent jurisdiction. *Laws 1911, ch. 164, sec. 11(d).*

Nothing herein contained shall prevent a public utility at
1425 any time from entering into a contract with a customer for a period exceeding two years at rates then lawful. *Same.*

NEW YORK The price fixed by commission under this section or under subdivision five of section 66 shall be the maximum price to be charged by any person or corporation for gas or electricity for the service to be furnished and for a period
1426 to be fixed by commission in the order not exceeding three years

except in the case of a sliding scale and thereafter until commission shall upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of gas or electricity to be thereafter charged. *Laws 1910, ch. 480, sec. 72.*

See also par. 994.

NORTH CAROLINA A schedule of rates fixed by commission shall in suits brought against any company wherein is involved charges of any company for the transportation of any passenger
1427 or freight or cars or unjust discrimination in relation thereto, be taken in all courts as prima facie evidence that the rates therein fixed are just and reasonable rates. *Pell's Revisal 1908, sec. 1112.*

All such schedules shall be received and held in all suits as prima facie evidence of the schedules of commission without further proof than the production of the schedules desired to be
1428 used as evidence with a certificate of the clerk of commission that the same is a true copy of the schedule prepared or approved by it for the railroad company or corporation therein named. *Same.*

NORTH DAKOTA A provision identical with par. 1398, except that "the rates therein fixed are reasonable maximum rates"
1429 reads "the rates therein fixed are reasonable and just maximum rates." *Rev. Codes 1905, sec. 4343, as amended by Laws 1911, ch. 255, sec. 2.*

Also a provision identical with par. 1399, except that "and
1430 that notice of the same has been published as required by law," is added. *Same.*

Any decisions with respect to rates made by commission and entered on record including any schedules and classifications shall, when duly authenticated, be received and held in all suits brought against any railroad, railroad corporation or common
1431 carrier wherein is in any way involved the charges of any such railroad, railroad corporation or common carrier in any of the courts of the state as prima facie evidence that the rates therein fixed are reasonable maximum rates the same as the schedule made by commission as provided in section 4343. *Same, sec. 4346.*

OHIO All rates, fares, charges, classifications and joint rates fixed by commission shall be in force and be prima
1432 facie lawful for one year from the day they take effect or until

changed or modified by commission or by an order of a competent court in an action under the provisions of this chapter. *Code 1910, sec. 541.*

All regulations, practices and service prescribed by commission shall be in force and be prima facie reasonable unless
1433 suspended or found otherwise in an action brought for that purpose pursuant to the provisions of this chapter or until changed or modified by commission. *Same, sec. 542.*

OKLAHOMA All rates, charges, classifications, rules and regulations adopted, or acted upon, by any transportation and
1434 transmission companies, inconsistent with those prescribed by commission, shall be unlawful and void. *Const., art. ix, sec. 18.*

OREGON All rates, fares, charges, classifications and joint rates fixed by commission shall be in force and shall be prima facie lawful, and all regulations, practices and service
1435 prescribed by commission shall be in force and prima facie reasonable until finally found otherwise in an action brought for that purpose pursuant to the provisions of sections 32, 33, 34 and 35 of this act. *Gen. Laws 1907, ch. 53, sec. 31.*

All rates, tolls, charges, schedules and joint rates fixed by commission shall be in force and shall be prima facie lawful and all regulations, practices and services prescribed by commission
1436 shall be in force and shall be prima facie lawful and reasonable until found otherwise in a suit brought for that purpose pursuant to the provisions of sections 54, 55, 56 and 57 of this act. *Gen. Laws 1911, ch. 279, sec. 53.*

SOUTH CAROLINA Schedules made by commission shall in suits brought against any railroad corporation wherein is involved the charges of any such railroad corporation for the transportation
1437 of any passenger or freight or cars or unjust discrimination in relation thereto, be deemed and take in all of the courts of the state as sufficient evidence that the rates therein fixed are just and reasonable rates. *Gen. Stats. 1902, sec. 2093.*

Schedules made or revised by commission shall not be taken as evidence as herein provided until schedules have been prepared and published as required by law for all the railroad companies now organized under the laws of this state or that may be organized at the time of said publication. All such schedules purporting to be printed and published as aforesaid shall be received and held in all such suits as prima facie the schedules of
1438 commission without further proof than the production of the

schedule desired to be used as evidence with a certificate of the railroad commission that the same is a true copy of the schedule prepared by them for the railroad company or corporation therein named and that the same has been duly published as required by law. *Same.*

SOUTH DAKOTA The schedules made by commission shall in all suits brought against railroad corporations wherein is in any way involved the charges of any such railroad corporation for the transportation of passengers and freight or cars or unjust discrimination in relation thereto, be deemed and taken in all courts of the state as prima facie evidence that the rates and passenger fares therein fixed are reasonable and just maximum rates. *Rev. Pol. Code 1903, sec. 450.*

1439 All schedules made by commission shall be received and held in all such suits as prima facie the schedules of commission without further proof than the production of the schedule desired to be used as evidence with a certificate of commission that the same is a true copy of the schedule prepared by it for the railroad company or corporation therein named, and that notice of making the same has been published as required by law. *Same.*

1440 The schedules made by commission shall in all suits brought against common carriers wherein is in any way involved the charges of any such common carrier for the transportation of passengers, freight, cars, express or messages by telephone or unjust discrimination in relation thereto, be deemed and taken in all courts of the state as prima facie evidence that the rates and passenger fares therein fixed are reasonable and just maximum rates. *Sess. Laws 1911, ch. 207, sec. 20.*

1441 All schedules made by commission shall be received and held in all suits as prima facie the schedule of commission without further proof than the production of the schedule desired to be used as evidence with a certificate of commission that the same is a true copy of the schedule prepared by it for the common carrier or corporation therein named and that notice of making the same has been given as required by law. *Same.*

1442 Any decision with respect to rates made by commission and entered upon record including any schedule and classification shall, when duly authenticated, be received and held in all suits brought against any common carrier wherein is in any way involved the charges of any such corporation or common carrier mentioned in said decision in any of the courts of the state as

prima facie evidence that the rates and fares therein fixed are reasonable maximum rates and fares. *Same, sec. 23.*

See also pars. 1167, 1170, 1173.

TEXAS

In all actions between private parties and railway companies, the rates, charges, orders, rules, regulations and classifications prescribed by commission before the institution of such action shall be held conclusive and deemed and accepted to
1444 be reasonable, fair and just and in such respects shall not be controverted therein until finally found otherwise in a direct action brought for that purpose in the manner prescribed in articles 4565 and 4566. *Sayles' Civ. Stats. 1897, art. 4564.*

VIRGINIA

1445 Identical with par. 1434. *Const., sec. 156(b).*

WISCONSIN

All rates, fares, charges, classifications and joint rates fixed by commission, shall be in force and shall be prima facie lawful and all regulations, practices and service pre-
1446 scribed by commission shall be in force and prima facie reasonable until finally found otherwise in an action brought for that purpose pursuant to the provisions of section 16 of this act. *Laws 1905, ch. 362, sec. 1797-15.*

All rates, tolls, charges, schedules and joint rates fixed by the commission shall be in force and shall be prima facie lawful, and all regulations, practices and services prescribed by the com-
1447 mission shall be in force and shall be prima facie reasonable until finally found otherwise in an action brought for that purpose pursuant to the provisions of section 1797m-64. *Laws 1907, ch. 499, sec. 1797m-63.*

CHAPTER V

Publicity of Rates

SCOPE NOTE

This chapter includes provisions prescribing publicity in the establishment and change of rates by utilities or commissions, and such grants of power as authorize commissions to render publicity in rate making effective. For provisions incidentally involving publicity of rates, schedules or classifications on file with commissions, see ch. xiv, on commission procedure and practice. For provisions prohibiting any rates other than those specified in published schedules or the remittance of any portion of such rates, and for those requiring the publication and filing with commissions of lists of persons to whom free or reduced rate or special service has been granted, see ch. vi, on discrimination in rates and service. For provisions indicating the principles to be observed in determining proper rates, see ch. iii, on basis of rate making. For provisions authorizing commissions to regulate or prescribe rates, see ch. iv, on establishment and change of rates. For provisions regulating rate making in practice, see ch. vi, on discrimination in rates and service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. FILING OF SCHEDULES.¹

UNITED STATES Every common carrier shall file with commission and print and keep open to public inspection schedules showing all the rates, fares and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, 1448 by pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection the separately established rates, fares and charges applied to the through transportation. *Act to Regulate Commerce, sec. 6.*

In case of failure or refusal of any carrier, receiver or trustee to comply with the terms of any regulation adopted and promulgated, or any order made by commission under the provisions of this section, such carrier, receiver or trustee shall be liable to a 1448 penalty of \$500 for each such offense and \$25 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered by civil action brought by the United States. *Same.*

Before any common carrier shall issue any interchangeable mileage tickets with special privileges, it shall file with commission copies of the joint tariffs of rates, fares or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as 1480 common carriers are required to do with regard to other joint rates by section 6 of this act; and all the provisions of said section 6 relating to joint rates, fares and charges shall be observed by said common carriers and enforced by commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares and charges referred to in said section 6. *Same, sec. 22.*

The wilful failure upon the part of any carrier to file and publish the tariffs or rates and charges as required by law or strictly to observe such tariffs until changed according to law shall be a 1481 misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than \$1,000 nor more than \$20,000 for each offense. *Elkins Act, sec. 1.*

See also par. 1527.

¹See also pars. 1653-1697.

ALABAMA

Every common carrier shall cause to be printed or typewritten in plain type or characters, and shall file with commission within a reasonable time to be fixed by commission, and shall keep open to public inspection schedules showing all the rates, fares and charges for the transportation of property and passengers, and any service in connection therewith which it has established or which have been established by statute or by commission between all points in the state on its own route, and, when a through route and joint rate have been established, between all points in the state on its route and all points in the state on the route of any other carrier by railroad or by water with which a through route and joint rate have been established. *Code 1907, sec. 5521.*

See also par. 2086.

ARIZONA, CALIFORNIA

Every common carrier shall file with commission and shall print and keep open to public inspection schedules showing the rates, fares, charges and classifications for the transportation between termini within this state of persons and property from each point on its route to all other points thereon; and from each point upon its route to all points upon every other route leased, operated or controlled by it; and from each point on its route or upon any route leased, operated or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the schedules of the several carriers in such through route shall show the separately established rates, fares, charges and classifications applicable to the through transportation. *Ariz.—Sess. Laws 1912, ch. 90, sec. 14(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 14(a).*

Under such rules and regulations as commission may prescribe every public service corporation¹ other than a common carrier shall file with commission within such time and in such form as commission may designate and shall print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges and classifications collected or enforced or to be collected or enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to

¹ "Public utility," in California.

rates, tolls, rentals, classifications or service. *Ariz.—Same, sec. 14(b); Cal.—Same, sec. 14(b).*

Unless otherwise ordered by commission a schedule showing joint tariff, rate, toll, fare, contract, classification or charge need be filed with commission by only one of the parties to it; provided that there is also filed with commission in such form as commission may require a concurrence in such joint tariff, rate, toll, fare, contract, classification or charge by each of the other parties thereto. *Ariz.—Same, sec. 16; Cal.—Same, sec. 16.*

Every common carrier and every telegraph and telephone corporation shall print and file or cause to be filed with commission, schedules showing all the rates, fares, tolls, rentals, charges and classifications for the transportation of persons or property or the transmission of messages or conversations between all points within this state and all points without the state upon its route, and between all points within this state and all points without the state upon every route leased, operated or controlled by it, and between all points on its route or any route leased, operated or controlled by it within this state and all points without the state upon the route of any other common carrier or telegraph or telephone corporation, whenever a through route and joint rate shall have been established between two such points. *Ariz.—Same, sec. 18; Cal.—Same, sec. 18.*

See also pars. 719, 722.

COLORADO Substantially identical with par. 1448. *Laws 1910, sp. sess., ch. 5, sec. 6.*

ILLINOIS Each and every express company and carrier by express shall file with commission printed copies of all schedules and charges or amendments thereto that may be made or promulgated from time to time, also all changes in said schedules, tariffs, classifications, regulations and rules as prescribed and defined by law. *Revisal 1909, ch. 114, sec. 371.*

Any express company or carrier by express or any officer, representative, servant, agent, lessee, trustee or receiver of such express company or carrier by express knowingly failing or neglecting to obey any order made under the provisions of this section shall be fined in any sum not exceeding \$1,000 for each offense to be recovered in an action of debt in the name of the people of the state of Illinois, and there may be several counts joined in the same declaration. Each distinct violation shall be a separate offense, and in case of a continuing violation, the violation for each day shall be deemed a separate offense. *Same.*

INDIANA

The classification of freight on all railroads in this state shall be uniform, and every carrier shall print in plain type and file with commission, within 60 days after this act goes into effect, unless commission, for cause shown, shall extend such time, schedules which shall be open to public inspection, showing all rates and charges for the transportation of passengers and property, and for sleeping and parlor car service and accommodations, and schedules of joint rates showing all joint rates, fares and charges for the transportation of passengers and property, and for sleeping and parlor car service and accommodations, and of any service in connection with all such transportation which it has established, and which are in force at that time between all points in this state upon its lines, or any line controlled or operated by it, upon its lines or any one or more connecting lines, and such carriers shall file with commission within such time, the classification of freight in force on its line. Such carrier shall also file with commission schedules of all such rates which it shall adopt and put into effect after such date, and in the manner here provided, at least two days before the same becomes effective; provided that commission, upon a showing made, can put such new rates into effect at once. *Acts 1911, ch. 225, sec. 1.*

Upon demand therefor by commission, every carrier shall file with commission any schedule of rates in force on its line for the carriage of passengers or property in interstate commerce to enable commission to perform the duties devolved upon it by this act, and any such schedule shall be filed within five days after the same has been demanded. *Same.*

See also par. 1538.

IOWA

If passengers and freight pass over continuous lines or routes in this state, operated by more than one common carrier, and the several common carriers operating such lines or routes have established joint tariffs of rates, fares or charges for such continuous lines or routes, copies of such joint tariffs shall be filed with commission. *Code 1897, sec. 2128.*

If any common carrier shall neglect or refuse to file or publish its schedule or tariff of rates, fares and charges, or any part of the same, it shall, in addition to the other penalties prescribed by law, be subject to a writ of mandamus to be issued by any district court of the state in the judicial district wherein its principal office is situated, or wherein such offense may be committed. If such common carrier be a foreign corporation, then such writ may be issued by any district court in the judicial district where

it accepts traffic and has an agent to perform such service, to compel compliance with the provisions of this section—such writ to issue in the name of the state at the relation or upon the petition of commission; and the failure to comply with its requirements shall be punishable as for contempt, and shall make said corporation liable to a penalty of \$500 for each day's failure to comply therewith; and when such writ of mandamus shall be applied for, no bond shall be required. *Same.*

See also par. 1878.

KANSAS

All railroads shall furnish commission copies of all their schedules of rates, charges and classifications of freight, joint tariffs, and divisions of rates, and shall, in addition thereto, furnish commission with copies of all rules and regulations concerning the switching or transfer of freight and cars, and of rules providing charges therefor, and copies of all rules, orders or
1444 schedules fixing or providing for mileage, per diem, demurrage or storage charges, or for use of cars, loaded or empty, and of printed rules governing the action of employes in operating trains engaged in switching, passenger or freight traffic; and upon the adoption of any new classification, schedule of rates, rules or orders by any such railroad company, it shall within ten days thereafter furnish commission with copies thereof. *Gen. Stats. 1909, sec. 7174.*

Failure of any railroad company to furnish any of the things above provided within the time specified, shall subject such rail-
1445 road company to a fine of not less than \$100 nor more than \$1,000 for each day that such failure and neglect shall continue, and each day of such continuance shall constitute a separate offense. *Same.*

Every public utility and every common carrier shall publish and file with commission copies of all schedules of rates, joint rates, tolls, fares, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate, and shall furnish commission with copies of all rules, regulations and con-
1446 tracts between common carriers or public utilities pertaining to any and all services to be rendered by such public utility or common carrier. Commission may prescribe reasonable rules and regulations regarding the printing and filing of all schedules, tariffs, and classifications of all rates, joint rates, tolls, fares, charges and all rules and regulations of such public utilities and common carriers. *Laws 1911, ch. 238, sec. 11.*

KENTUCKY

All railroad companies doing business in this state upon lines owned or leased by them shall, within 30 days after this act goes into effect, furnish commission copies of all
1467 their rates and tariffs then in force; and shall also furnish commission with copies of all rates and tariffs, or changes therein, thereafter made, at the date that the same are issued. *Carroll's Stats. 1909, sec. 781.*

MARYLAND

Every common carrier shall file with commission and shall print and keep open to public inspection, schedules showing the rates, fares and charges for the transportation of passengers and property within the state between each point upon its route and all other points thereon; and between each point upon its route, and all points upon every route leased, operated or controlled by it; and between each point on its route or
1468 upon any route leased, operated or controlled by it, and all points upon the route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection, the separately established rates, fares and charges applied to the through transportation. *Laws 1910, ch. 180, sec. 15.*
See also pars. 723, 1540.

MICHIGAN

Every common carrier shall file with commission and print and keep open to public inspection in each of its depots and offices, schedules showing all rates, fares and charges for transportation, both of passengers and property, between different points on its own route, and between points on
1469 its own route and on the route of any other carrier, when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection the separately established rates, fares and charges applied to the through transportation. *Pub. Acts 1911, no. 139, sec. 10(a).*

Every common carrier shall within 90 days unless further time be granted by commission, file in the office of commission
1470 copies of all schedules of rates, including joint rates in force on its line or lines between points within the state on the date this act takes effect, not previously filed by such carrier with commission. *Same, sec. 10(i).*

Any freight tariffs issued by common carriers relating to interstate traffic in this state or by any common carrier relating
1471 either to interstate or to intrastate traffic wholly by water routes in this state shall be on order of commission filed in the office of commission within such time as such order shall prescribe.
Pub. Acts 1909, no. 300, sec. 31.

It shall be the duty of each telephone company to file with commission a copy of each schedule. It shall be unlawful for any
1472 telephone company to neglect or refuse to have such schedule on file or to neglect or refuse to file a copy of same with commission. *Pub. Acts 1911, no. 138, sec. 19.*

See also pars. 1542, 2132.

MINNESOTA Every railroad company shall file with commission copies of schedules and shall promptly notify commission of
1473 all proposed changes therein. *Rev. Laws 1905, sec. 2014.*

Copies of all joint schedules of rates, fares or classifications
1474 shall also be filed with commission and be made public in the same manner as provided for the publication of tariffs. *Same.*

MISSOURI Copies of the schedules, also of rules and regulations, if any, shall be filed with commission, and from the date of such filing the rates, fares and charges specified in such
1475 schedules, not being in excess of any statutory maximum rates now or that may hereafter be in force, shall be deemed the established rates, fares and charges of carriers until the same is changed as provided by law. *Rev. Stats. 1909, sec. 3187.*

In all cases where freight passes over continuous lines or routes within this state, operated by more than one common carrier, and the several common carriers operating such line or
1476 routes establish joint rates, fares or charges for such continuous lines or routes, copies of joint tariffs shall be filed with commission and shall be published in such manner as may be directed by commission. *Same, sec. 3188.*

All railroad companies doing business in the state shall upon the request of commission furnish to commission copies of all its
1477 schedules of freight rates and charges, and all other papers and documents including bills of lading and contracts for transportation of freight affecting in any way the transportation of freight within, into and from the state. *Same, sec. 3252.*

Within 60 days after this article shall become a law, all express companies or corporations doing an express carrying business over any of the railroads now operated, and which may

hereafter be operated in the state shall be and are required to file with commission a complete and specific schedule of their classifications of all matters and merchandise received by them for carriage and transportation, together with a detailed statement of their rates of charges in each of the classes into which their
1478 freight and express matter is divided; and if there be any rules or regulations which change, determine or affect any part of the aggregate of such rates and charges, such rules and regulations shall accompany such schedule; and if any two or more of such express companies doing business in this state have joint rules and regulations and charges for the exchange of articles of express or other matter so carried by them, the said rules and regulations and schedule of charges shall also be filed with commission within the time specified above. *Same, sec. 3287.*

See also pars. 809, 1881.

NEBRASKA All common carriers shall file with commission all freight and passenger schedules, classifications, rates, tariffs, and charges used by said common carrier and in effect on January 1, 1907; both state, interstate and proportional charges. Any
1479 common carrier who shall fail, neglect or refuse to file the schedules, classifications, rates, tariffs and charges as provided herein shall be guilty of a misdemeanor and for each offense shall be fined in a sum not to exceed \$25,000. *Cobbey's Annot. Stats. 1909, sec. 10653.*

If passengers and freight pass over continuous lines or routes in this state, operated by more than one railway company or common carrier, and the several companies or carriers operating such lines or routes have established joint tariffs, the same shall be filed with commission. Said joint rates, fares, and charges on such continuous lines shall be made public by said railway companies or common carriers when directed by commission, in so far as in the judgment of commission may be practicable, and
1480 commission shall also from time to time prescribe the measure of publicity which shall be given to any joint rates, fares, and charges, or to such part thereof as it may think practicable for such railway companies or common carriers to publish, and the places in which they shall be published. No railway company or common carrier, party to any such joint tariff, shall be liable for the failure of any other party thereto to observe and adhere to the rates, fares or charges thus made and published. *Same, sec. 10656(a).*

Also a provision substantially identical with par. 1463, ex-

1481 cept that the amount of the penalty imposed is \$1,000 instead
of \$500. *Same, sec. 10656(b).*

All express companies shall file with commission a complete
schedule of the rates and classifications charged for the trans-
1482 portation of money or merchandise within this state by such
company, which was in force on the first day of January, 1907.
Same, sec. 11970.

NEVADA

Every railroad shall print in plain type, and
file with commission within a time fixed by commission, schedules
which shall be open to public inspection, showing all rates, fares
and charges for the transportation of passengers and property,
1483 and any service in connection therewith, which it has estab-
lished and which are in force at the time between all points in this
state upon its line, or any line controlled or operated by it, and the
rates, fares and charges shown on such schedules as are in effect
at the date this act takes effect. *Stats. 1907, ch. 44, sec. 4.*

When passengers or property are transported over connecting
lines in this state operated by more than one railroad and the
several railroads operating such lines establish joint rates, fares
1484 and charges, a schedule of joint rates shall also in like manner be
printed and filed with commission, and in every depot, station
and office of such railroads where such passengers or property are
received for transportation. *Same.*

Every railroad shall file in the office of commission copies of
1485 all schedules of rates, including joint rates in force on its line or
lines, between points within this state on the date this act takes
effect. *Same, sec. 36.*

See also par. 2152.

NEW HAMPSHIRE

Every railroad corporation and public utility
shall file with commission and shall print and keep open to public
inspection, schedules showing the rates, fares, charges and prices
1486 for the transportation of passengers and property or for any serv-
ice rendered or to be rendered in such places, within such time
and in such form and with such detail as commission may
order. *Laws 1911, ch. 164, sec. 7(a).*

In the case of railroad corporations and public utilities
subject to regulation by the interstate commerce commission,
the requirements relative to the filing of schedules with com-
1487 mission and to the publication thereof shall conform as nearly
as may be to the requirements of the interstate commerce com-
mission under the provisions of the act of congress entitled, "An

act to regulate commerce," and the acts amendatory thereof and supplementary thereto. *Same*, sec. 7(b).

NEW JERSEY Commission may require every public utility to file with it complete schedules of every classification employed
1400 and of every individual or joint rate, toll, fare or charge made, charged or exacted by it for any product supplied or service rendered within this state, as specified in such requirement. *Laws 1911, ch. 195, sec. 16(d)*.

NEW MEXICO Every transportation, transmission company or common carrier engaged in transportation of passengers and property from points in this state to points within, or beyond its limits, and from points in other states to points in this state, and every such interstate company or common carrier shall file with commission and shall print and keep open to the public inspection schedules showing the rates, fares, charges and classification for the transportation of persons and property within the state between each point upon its route and all other points thereon; and
1400 between each point upon its route and all points upon every other route leased, operated and controlled by it, and between each point on its route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to the public inspection the separately established rates, fares, charges and classifications, applied to the through transportation. *Laws 1912, ch. 78, sec. 16*.
See also par. 1547.

NEW YORK A provision for common carriers identical with
1400 par. 1468. *Laws 1910, ch. 480, sec. 28*.

Before any common carrier shall issue mileage, excursion, school or family commutation, commutation, half fare or any other form of reduced rate passenger tickets, or joint interchangeable mileage ticket, with special privileges, it shall file with
1401 commission copies of the tariffs of rates, fares or charges on which such tickets are to be based, together with the specifications of the amount of free baggage permitted to be carried under such joint interchangeable mileage ticket, in the same manner as common carriers are required to do with regard to other rates. *Same*, sec. 33(3), as amended by *Laws 1911, ch. 540*.

Commission may require every gas and electrical corporation to file with commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such gas or electrical corporation, but this subdivision shall not apply to state, municipal or federal contracts. *Same, sec. 66(12).*

Commission may also establish such rules and regulations to carry into effect the provisions of this subdivision as it may deem necessary, and to modify or amend such rules or regulations from time to time. *Same.*

Every telegraph and every telephone corporation shall print and file with commission schedules showing all rates, rentals and charges for service of each and every kind by or over its line between points in this state and between each point upon its line and all points upon every line leased or operated by it and between each point upon its line or upon any line leased or operated by it and all points upon the line of any other telegraph or telephone corporation whenever a through service or joint rate shall have been established between any two points. If no joint rate over a through line has been established the several corporations in such through line shall file with commission the separately established rates and charges applicable where through service is afforded. *Same, sec. 92(1).*

See also pars. 731, 1548, 1635.

NORTH DAKOTA Every railroad, railroad corporation or common carrier shall file with commission copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this article, and shall promptly notify commission of all changes made in the same. *Rev. Codes 1905, sec. 4342.*

In cases where passengers and freight pass over continuous lines or routes in this state operated by more than one person or company and the several railroads, railroad corporations or common carriers operating such lines or routes have established joint tariffs or rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with commission. *Same.*

If any railroad, railroad corporation or common carrier shall neglect or refuse to file or publish its schedules or tariff of rates,

fares and charges or any part of the same it shall in addition to other penalties herein prescribed, be subject to a writ of mandamus to be issued by any district court of this state in the judicial district wherein such offense may be committed. And if such railroad, railroad corporation or common carrier be a foreign corporation then such writ may be issued by any district court in the judicial district where such common carrier accepts traffic and
1497 has an agent to perform such service, to compel compliance with the provisions of this article, and such writ shall issue in the name of the state of North Dakota at the relation or upon the petition of commission; and failure to comply with its requirements shall be punishable as and for a contempt; and shall make said railroad, railroad corporation or common carrier liable to a penalty of \$500 for each day's failure to comply therewith, and when any such writ of mandamus shall be so applied for by commission, no bond shall be required of them by any court or judge in which or before whom any such application may be made. *Same.*

See also par. 1882.

OHIO

Each railroad shall print in plain type and file with commission, within a time fixed by commission, schedules, which shall be open to public inspection, showing all rates, fares
1498 and charges for transportation of passengers and property, and any service in connection therewith, which such railroad has established and which are in force at such time between all points in this state upon its line, or any controlled or operated by it. *Code, 1910, sec. 505.*

When passengers or property are transported over connecting lines in this state operated by two or more railroads, and such railroads establish joint rates, fares and charges, a schedule there-
1499 of, compiled as provided in the preceding section, shall be printed, filed with commission and filed in every depot, station and office of such railroad where passengers or property are received for transportation. *Same, sec. 507.*

All freight tariffs issued by any railroad relating to inter-
1500 state traffic in this state shall be filed in the office of commission when issued. *Same, sec. 563.*

Every public utility shall print and file with commission within 90 days after this act takes effect, schedules, showing all rates, joint rates, rentals, tolls, classifications and charges for
1501 service of each and every kind by it rendered or furnished, which were in effect at the time this act takes effect and the length

of time the same has been in force, and all rules and regulations in any manner affecting the same. *Laws 1911, no. 325, sec. 18.*

See also pars. 732, 2173.

OREGON

Every railroad shall print in plain type and file with commission within a time to be fixed by commission, schedules which shall be open to public inspection, showing all rates, fares and charges for the transportation of passengers and property, or use of union depot and terminals, and any service in connection therewith, which it has established and which are in force at the time between all points in this state upon its line, or any line controlled or operated by it. *Gen. Laws 1907, ch. 53, sec. 13.*

When passengers or property are transported over connecting lines in this state operated by more than one railroad, and the several railroads operating such lines establish joint rates, fares and charges, a schedule of joint rates shall also in like manner be printed and filed with commission and kept on file in every depot, station and office of such railroad where an agent is maintained. *Same.*

All freight tariffs issued by any such railroad relating to interstate traffic in this state shall be filed in the office of commission within 30 days after the passage and publication of this act and all such tariffs thereafter issued shall be filed with commission when issued. *Same, sec. 47.*

Every railroad in this state shall within 30 days after the taking effect of this act, file in the office of commission copies of all schedules of rates, including joint rates in force on its line or lines, between points within this state, on the first day of January, 1907, and all rates in force between such points at any time subsequent to said date. *Same, sec. 62.*

Every public utility shall file with commission within a time to be fixed by commission, schedules which shall be open to public inspection showing all rates, tolls and charges which it has established and which are in force at the time, for any service performed by it within the state or for any service in connection therewith or performed by any public utility controlled or operated by it. *Gen. Laws 1911, ch. 279, sec. 25.*

Every public utility shall file with and as part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for any service. *Same, sec. 26.*

Every public utility shall also file with commission copies of interstate rate schedules and rules and regulations issued by it or to which it is a party. *Same.*

Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedule shall in
1500 like manner be printed and filed with the commission and so much thereof as the commission shall deem necessary for the use of the public shall be filed in every such station or office as provided in section 27. *Same, sec. 28.*

Every public utility shall, within a time to be fixed by commission, file in the office of commission, copies of all sched-
1510 ules of rates and charges including joint rates, in force on the first day of January, 1911, and all rates in force at any time subsequent to said date. *Same, sec. 77.*

See also pars. 1274, 1322, 1325, 2181.

RHODE ISLAND Identical with par. 1506. *Acts 1912, ch. 795,*
1511 *sec. 48.*

SOUTH CAROLINA Every railroad corporation shall, at all times on request, furnish commission with the rates of transporting
1512 freight and passengers upon its road and other roads with which its business is connected. *Gen. Stats. 1902, sec. 2072.*

SOUTH DAKOTA Provisions for common carriers substantially
1513 identical with pars. 1495, 1496, 1497. *Sess. Laws 1911, ch. 207, sec. 10.*

On or before July 1, each express company doing business in this state shall file with commission a complete schedule of its classifications of property, and the rates and charges for the transportation of money or other property within this state, by
1514 such company, and its joint rates with other companies, as the same were in force on the first day of January, 1909, and shall on or before July 1, 1909, have prepared and put in operation a new schedule of rates as established herein. *Sess. Laws 1909, ch. 159, sec. 3.*

Any express company which shall fail, neglect or refuse to make and publish a schedule of its rates as provided herein shall be fined a sum not exceeding \$2,000; and each day said company
1515 shall fail or refuse to establish the rates provided for herein shall constitute a separate offense; provided that any express company shall be notified of and have an opportunity to correct any error in a schedule before an action is commenced to recover the foregoing penalty. *Same, sec. 7.*

Every telephone company doing business in this state shall file with commission schedules or tariffs showing all rates and charges for the rent of any line or instrument and for the trans-

mission of messages and any service in connection therewith,
1516 between all points in this state upon its line or any line controlled or operated by it, and all rules and regulations that in any manner affect such rates or charges; and thereafter every telephone company shall file with commission a copy of all proposed changes in any schedule of rates or charges, at least 30 days before the same shall take effect. *Sess. Laws 1911, ch. 218, sec. 4.*

See also par. 1882.

VERMONT

Every railroad corporation shall file with commission and keep on file in all railroad offices in the state, schedules showing the rates or tariffs charged by such corporation for transportation of passengers and property between the different
1517 points on its own lines, and between the points on its own lines and those of all other common carriers with which it has a joint rate, and also showing the charge for any and all services of any and all kinds connected with such transportation. *Pub. Stats. 1906, sec. 4533.*

Every company shall file with commission within a time to be fixed by it, schedules which shall be open to public inspection, showing all rates, tolls, and charges which it has established and
1518 which are in force at the time, including joint rates, for any service performed, or any product furnished by it, within the state, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged, or to be charged, for any such service or product. *Laws 1908, no. 116, sec. 18.*

VIRGINIA

Every transportation company shall submit to
1519 commission all of its schedules of rates, fares, and charges and of all changes made in the same. *Pollard's Code 1904, sec. 1294c(8).*

WASHINGTON

A provision for common carriers substantially
1520 identical with par. 1468. *Laws 1911, ch. 117, sec. 14.*

Every common carrier shall print and file or cause to be filed with commission schedules showing the rates, fares, charges and classifications for the transportation of persons and property between all points within the state and all points without the state upon its route, and between each point within the state and all points without the state upon every route leased, operated or
1521 controlled by it, and between each point upon its route within the state and all points without the state upon the route of any common carrier, whenever a through route and joint rate shall have been established between any two such points. If no joint rate over a through route has been established, the carrier operating

within this state shall print and file with commission the separately established rates, fares, charges and classifications applied to the through transportation. *Same, sec. 17.*

Every gas, electrical and water company and every warehouseman or wharfinger shall file with commission and shall print and keep open to public inspection schedules in such form as commission may prescribe, showing all rates and charges made, **1822** established or enforced, or to be charged or enforced, all forms of contract or agreement, all rules and regulations relating to rates, charges or service, used or to be used, and all general privileges and facilities granted or allowed by such gas, electrical or water company or warehouseman or wharfinger. *Same, secs. 27 (gas, electrical and water company), 47 (warehouseman or wharfinger).*

Every telephone and telegraph company shall file with commission and shall print and keep open to public inspection at such points as commission may designate, schedules showing the rates, tolls, rentals, contracts and charges of such companies for messages, conversations and services rendered and equipment and facilities supplied for messages and services to be performed within the state between each point upon its lines and all other points thereon, and between each point upon its line and all **1823** points upon every other similar line operated or controlled by it, and between each point on its line or upon any line leased, operated or controlled by it and all points upon the line of any other similar company, whenever a through service and joint rate shall have been established or ordered between any two such points. If no joint rate covering a through service has been established, the several companies in such through service shall file, print and keep open to public inspection the separately established rates, tolls, rentals, contracts and charges applicable for such through service. *Same, sec. 36.*

WISCONSIN Provisions substantially identical with pars. 1502, 1503, 1504, 1506, 1507, 1509. *Laws 1905, ch. 362, secs. 1824 1797-4, 1797-21. Laws 1907, ch. 499, secs. 1797m-27, 1797m-28, 1797m-30(1).*

• Every public utility shall, within 30 days after the passage and publication of this act, file in the office of commission, **1825** copies of all schedules of rates and charges including joint rates, in force on the first day of April, 1907, and all rates in force at any time subsequent to said date. *Laws 1907, ch. 499, sec. 1797m-105(2)*

See also pars. 1282, 1330, 1333, 2224.

B. MATTERS TO BE CONTAINED IN SCHEDULES.¹

UNITED STATES The schedules printed by any common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal
1836 charges, storage charges, icing charges and all other charges which commission may require, all privileges or facilities granted or allowed and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such rates, fares and charges or the value of the service rendered to the passenger, shipper or consignee. *Act to Regulate Commerce, sec. 6.*

The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with com-
1887 mission such evidence of concurrence therein or acceptance thereof as may be required or approved by commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to file also copies of the tariffs in which they are named as parties. *Same.*

Commission may reject and refuse to file any schedule that
1838 is tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by commission shall be void and its use shall be unlawful. *Same.*

See also par. 1558.

ALABAMA The schedules shall plainly state the places in the state on its own line or any line controlled or operated by a
1839 common carrier and on any line with which a through route and joint rate have been established between which property and passengers will be carried, and shall contain the classification of freight in force. *Code 1907, sec. 5521.*

The schedules shall contain all the rules and regulations that in any manner affect the rates or fare to be charged for the transportation of passengers and property and all charges for delay
1890 in loading or unloading cars, for track and car service or rental and for switching, demurrage, terminal and transfer service and for rendering any other service in connection with the transportation of passengers and property. *Same, sec. 5522.*

ARIZONA The schedules printed shall plainly state the places between which property and persons will be carried, and

¹ See also pars. 1448-1525.

shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges and all other charges which commission
1881 may require to be stated, all privileges or facilities granted or allowed, and all rules or regulations which may in any wise change, affect or determine any part or the aggregate of such rates, fares, charges and classifications, or the value of the service rendered to the passenger, shipper or consignee. *Sess. Laws 1912, ch. 90, sec. 14(a).*

The names of the several public service corporations which
1882 are parties to any joint tariff, rate, fare, toll, contract, classification or charge shall be specified in the schedule or schedules showing the same. *Same, sec. 16.*

ARKANSAS Schedules shall state: First, the different kinds and classes of property to be carried; second, the different places between which property shall be carried; third, the rate of freight
1883 or express charges for carriage between such places, and for all services connected with the transportation of such property, from its receipt until it is delivered or forwarded. *Kirby's Digest 1904, sec. 6803.*

CALIFORNIA Identical with pars. 1531, 1532, except that
1884 "public utilities" is used instead of "public service corporations." *Stats. 1911, 1st. ex. sess., ch. 14, secs. 14(a), 16.*

COLORADO Substantially identical with par. 1526. *Laws 1885 1910, sp. sess., ch. 5, sec. 6.*

ILLINOIS Schedules shall include and contain not only the rates, fares and charges to be charged, collected or received for the transportation of persons or property between points wholly within the state, but also shall state separately all terminal
1886 charges, storage charges, icing charges or other charges which commission may require, or privileges or facilities granted or allowed, and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such rates, fares or charges or the value of the services rendered to the passenger, shipper or consignee. *Revisal 1909, ch. 114, sec. 198.*
See also par. 1570.

The classification of freights is part of the schedule and must be published the same as the schedule. *St. Louis & C. Ry. Co. vs. Blackwood, 14 Ill. App. 503.*

INDIANA Every schedule of joint rates filed shall name the carriers parties thereto, and the carrier publishing and filing

1887 the same shall procure the concurrence of the connecting carriers thereto and deliver copies thereof to the connecting carriers so named. *Acts 1911, ch. 225, sec. 1.*

Every such carrier shall publish with and as a part of such schedule all rules and regulations that in any manner affect the rates charged or to be charged, for the transportation of passengers or property, and all switching, terminal and transfer service, 1888 or for rendering any other service in connection with the transportation of persons or property, and the said carriers, within such time, shall file with commission copies of all switching tariffs and transfer charges in force at any terminal or junction point upon its line in this state. *Same.*

IOWA The schedules shall plainly state the places upon the road of every common carrier between which passengers and property will be carried and shall contain the classifications 1889 of freight in force upon such road, stating separately any terminal charges and any rules and regulations which in any wise change, affect or determine any part of the aggregate of such rates, fares and charges. *Code 1897, sec. 2128.*

MARYLAND A provision substantially identical with par. 1840 1531; also a provision identical with par. 1527. *Laws 1910, ch. 180, sec. 15.*

MICHIGAN • A provision identical with par. 1526, except that the following proviso is added: Provided that where local 1841 switching tariffs are in effect at a competitive point, it shall be sufficient if the schedules state that the terminal charges shall be subject to the rules of such local switching tariffs. *Pub. Acts 1911, no. 139, sec. 10(a).*

1842 Also a provision identical with par. 1527. *Same, sec. 10(c).*

MINNESOTA Schedules shall plainly state the places between which persons and property will be carried, shall show the classification of freights, a distance tariff, a table of distances between 1843 stations, and shall state, and shall state separately, the terminal charges, and any rules or regulations in any way affecting the aggregate of such rates, fares and charges. *Rev. Laws 1905, sec. 2012, as amended by Laws 1907, ch. 337.*

See also par. 1582.

MISSOURI Schedules shall contain the classifications of freight in force upon any railroad or railroads, and if there be any 1844 rules or regulations which change, determine or affect any part

of the aggregate of such rates, fares and charges, such rules and regulations shall accompany such schedule. *Rev. Stats. 1909, sec. 3187.*

MONTANA *See par. 1588.*

NEBRASKA Identical with par. 1539. *Cobbey's Annot. 1845 Stats. 1909, sec. 10656.*
See par. 1590.

NEVADA The schedules printed shall plainly state the places upon its line or any line controlled or operated by it in the state between which passengers and property will be carried, and there shall be filed therewith the classifications of freight in force. Every railroad shall publish with and as a part of such
1846 schedules all rules and regulations that in any manner affect the rates charged or to be charged for the transportation of passengers or property, also its charges for delay in unloading or loading cars, for track and car service or rental, and for demurrage, switching, terminal or transfer service or for rendering any other service in connection with the transportation of persons or property. *Stats. 1907, ch. 44, sec. 4.*

NEW MEXICO A provision substantially identical with par.
1847 1531; also a provision identical with par. 1527. *Laws 1912, ch. 78, secs. 16, 18.*

NEW YORK A provision substantially identical with par.
1848 1531; also a provision identical with par. 1527. *Laws 1910, ch. 480, secs. 28, 30(1).*

The schedules of telegraph and telephone companies shall plainly state the places between which telephone or telegraph service or both will be rendered, and shall also state separately
1849 all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contracts which may in any wise change, affect or determine any part or the aggregate of the rates, rentals or charges for the service rendered. *Same, sec. 92(1).*

NORTH DAKOTA A provision for railroads, railroad corporations or common carriers substantially identical with par. 1539.
Rev. Codes 1905, sec. 4339.

OHIO Substantially identical with par. 1546. *Code 1861 1910, sec. 506.*

OREGON

Identical with par. 1546. *Gen. Laws 1907, ch. 1882 53, sec. 13.*

SOUTH DAKOTA

Schedules printed by any common carrier shall plainly state the places between which property, passengers, express, or messages by telephone will be carried and shall contain the classification of freight and express in force upon such
1883 common carrier and shall also state separately all terminal charges, storage charges, icing charges, all privileges or facilities granted or allowed, and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such rates, fares and charges. *Sess. Laws 1911, ch. 207, sec. 10.*
See also par. 1609.

VIRGINIA

The schedules printed shall plainly state the places upon its route between which property and passengers will be carried by any transportation company and shall contain the
1884 classification of freight in force, and shall also state separately the terminal charges, and any rules and regulations which in any wise change, affect or determine any part or the aggregate of such rates, fares and charges. *Pollard's Code, 1904, sec. 1294c(5).*

WASHINGTON

A provision substantially identical with par. 1531; also a provision identical with par. 1527; also a provision
1886 for interstate rates substantially identical with par. 1531; also a provision substantially identical with par. 1549; also a provision for telephone and telegraph companies identical with par. 1527. *Laws 1911, ch. 117, secs. 14, 16, 17, 36, 38.*
See also par. 1623.

WISCONSIN

Identical with par. 1546. *Laws 1905, ch. 362, 1886 sec. 1797-4.*

C. PUBLICATION AND POSTING OF SCHEDULES.¹

UNITED STATES

Schedules shall be plainly printed in large type and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station or office
1887 of common carriers where passengers or freight respectively are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. These provisions shall apply to all traffic transportation and facilities defined in this act. *Act to Regulate Commerce, sec. 6.*

¹ See also para. 1448-1525.

Any common carrier receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States
1558 beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public as required by this provision, shall before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production. *Same.*

ALABAMA Copies of schedules shall be kept posted for the use of the public in at least two public and conspicuous places
1559 in, and filed at, every depot, station or office of common carriers where passengers or freight are received for transportation, in such form and place that they shall be accessible to the public and can be conveniently inspected. *Code 1907, sec. 5523.*

In lieu of posting and filing its entire schedules at each depot, station or office where passengers and freight are received for transportation, common carriers may file and keep posted at each
1560 such depot, station or office, schedules of such of its rates, fares and charges as are applicable between such depot, station or office and all other points in the state on its road and on any road controlled or operated by it or with which a through route and joint rate have been established. *Same. sec. 5524.*

Any person or corporation operating a railroad who fails to post and keep posted at all freight depots the tariff of rates for
1561 transporting freight, showing general and special rates for each class, shall on conviction be fined not less than \$20 nor more than \$100. *Same, sec. 7690.*

ARIZONA Subject to such rules and regulations as commission may prescribe schedules shall be plainly printed in large type and a copy thereof shall be kept by every carrier readily accessible to and for inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation, when such station or
1562 office is in charge of an agent, and in every station or office of such carrier where passenger tickets or tickets for sleeping, parlor car or other train accommodations are sold, or bills of lading or

way bills or receipts for property are issued. Any or all of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person. *Sess. Laws 1912, ch. 90, sec. 14(a).*

ARKANSAS All persons or corporations engaged in the transportation of passengers or property shall keep posted up at
1863 every depot under the control of or in use by such person or corporation in a conspicuous place therein, plainly and legibly printed schedules. *Kirby's Digest, 1904, sec. 6803.*

Such schedules shall be posted at least five days before the
1864 same shall go into effect and the same shall remain in force until another schedule shall be posted. *Same.*

CALIFORNIA Subject to such rules and regulations as commission may prescribe, schedules shall be plainly printed in large type and a copy thereof shall be kept by every common carrier readily accessible to and for inspection by the public in every
1865 station or office of such carrier where passenger tickets or tickets for sleeping, parlor car or other train accommodations are sold or bills of lading or way bills or receipts for property are issued. Any or all of such schedules shall be immediately produced by such carrier for inspection upon the demand of any person. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 14(a).*

COLORADO Substantially identical with par. 1557. *Laws 1866 1910, sp. sess., ch. 5, sec. 6.*

FLORIDA The railroad companies affected shall furnish at their own cost and shall put in conspicuous places, the schedules, rate sheets, etc., adopted by commission according to the
1867 rules and regulations made by commission. *Gen. Stats. 1906, sec. 2903.*

GEORGIA Commission may require such publication by common carriers in newspapers of towns through which their
1868 lines extend of their schedules as may be reasonable and which the public convenience demands. *Code 1911, sec. 2663.*

ILLINOIS When any schedule shall have been made or revised commission shall have the same printed by the state printer under the contract governing state printing, and commission shall furnish two copies of said printed schedule to the president, general manager, general superintendent or receiver of each common carrier doing business in the state. And every

1509 such common carrier so receiving any such schedule from commission shall cause same to be plainly printed and copies for the use of the public shall be kept in every depot, station or office of such carrier where passengers or property respectively are received for transportation in such form that they shall be accessible to the public and can be conveniently inspected. *Revisal 1909, ch. 114, sec. 198.*

It shall be the duty of every express company and carrier by express to print in clear and legible type the schedules of rates and charges for the transportation of property, money, parcels, merchandise, packages and other commodities and things from every point in the state on its own line to every other point in the state on its own line or when in connection with any other express company or carrier by express to every other point of such other express company or carrier by express within the state where a
1870 joint rate has been established, and naming of such points in such schedules, and to post and keep displayed in each office or place of business of such express company or carrier by express within convenient access and for the inspection and use of the public during customary business hours, such printed schedules of rates and charges and any amendment thereto, and in like manner to post or display any special rules or regulations, also the classification applying which may be promulgated by them or by order of said commission for the information of shippers. *Same, sec. 370.*

Any express company or carrier by express, or any officer, representative, servant, agent, lessee, trustee or receiver of such express company or carrier by express, knowingly violating any of the provisions of this section shall upon conviction be fined in any sum not less than \$100 and not more than \$500 for the first
1871 offense; and for the second offense and each subsequent offense shall be fined in any sum not less than \$1,000 and not more than \$5,000, to be recovered in an action of debt in the name of the people of the state, and there may be several counts joined in the same declaration. Each distinct violation shall be a separate offense and in case of the continuing violation, the violation for each day shall be deemed a separate offense. *Same.*

INDIANA

A copy of schedules, rules and regulations and switching tariff, for the use of the public, shall be filed and kept on file in every depot, station and office of railroads where
1872 passengers or freight are received for transportation, and where an agent is regularly maintained, and in such form and place

as to be accessible to the public and where they can be conveniently inspected. *Acts 1911, ch. 225, sec. 1.*

IOWA

Every common carrier shall print and keep for public inspection schedules showing the rates, fares and charges for the transportation of passengers and property which it has established and which are in force at the time on its railroad. *Code 1897, sec. 2128.*

Such schedules shall be plainly printed in large type of at least the size of ordinary pica, and a copy for the use of the public shall be kept in every freight office and passenger station on such road where it can be conveniently inspected; and it shall keep a printed notice posted in every such freight office and passenger station indicating where therein the same can be found. *Same.*

Joint rates, fares or charges on continuous lines shall be made public by common carriers when directed by commission in so far as in its judgment may be practical, and it shall from time to time prescribe the measure of publicity which shall be given to such rates, fares and charges or to such part thereof as it may think practicable for such common carriers to publish and the places in which they are to be published; but no common carrier party to any such joint tariff shall be liable for the failure of any other party thereto to observe and adhere to the rates, fares or charges thus made and published. *Same.*

A printed copy of the schedules revised by commission shall be conspicuously posted by common carriers in each freight office and passenger depot upon all lines affected thereby. *Same, sec. 2138.*

Every company or common carrier engaged in transporting property, money, parcels, merchandise, packages and other things shall print in clear and legible type the schedules of rates for transportation of such property, money, parcels, merchandise, packages and other things so made by commission, and shall post in each of its offices or places of business where patrons visit for the purpose of making and receiving shipments, and keep displayed in each office or place of business within convenient access and for the inspection and use of the public during customary business hours such printed schedule of rates of charges and amendments thereto, and shall also post and display in similar manner any special rules and regulations which may be promulgated by them or commission for the information of their patrons. *Same, sec. 2165d.*

KANSAS

The rules prescribed by commission and delivered in writing to any person, firm, association or corporation engaged in the business of transporting oil by means of pipe lines shall be printed and posted up in a convenient, accessible and conspicuous place at each office, station or place of business where such oil is received or delivered. *Gen. Stats. 1909, sec. 3964.*

See also par. 743.

MARYLAND

Schedules shall be plainly printed; copies thereof for the use of the public shall be kept posted in public and conspicuous places in depots, stations and offices of every common carrier where passengers or property are received for transportation in such manner as to be readily accessible to and conveniently inspected by the public wherever and whenever so ordered by commission. *Laws 1910, ch. 180, sec. 15.*

MICHIGAN

Schedules shall be printed plainly in large type, and copies for the use of the public shall be kept on file for public inspection in every depot, station or office of common carriers where passengers or freight respectively are received for transportation or where tickets are sold, in such form that they will be accessible to the public and can conveniently be inspected. These provisions shall apply to all traffic and transportation facilities defined in this act. *Pub. Acts 1911, no. 139, sec. 10(a).*

Each telephone company within the state shall have on file and accessible to the public in its particular place of doing business, a schedule of the rates, charges and tolls made, charged or collected by said company for service rendered, furnished or performed and for joint services rendered, furnished or performed and at its exchange or toll station, a schedule of the rates, charges and tolls, made, charged, or collected by said company for services rendered, furnished or performed and for joint service rendered, furnished or performed in connection with such exchange or toll station. *Pub. Acts 1911, no. 138, sec. 19.*

MINNESOTA

Every company shall keep at every station or depot on its road convenient for and open to public inspection, schedules printed in large type showing all classifications, rates, fares and charges for transportation of freight and passengers in force at the time upon its road. *Rev. Laws 1905, sec. 2012.*

Every such company shall keep posted in a conspicuous place at every such station accessible to shippers, notice that such schedules are so kept thereat. *Same.*

See also par. 957.

MISSISSIPPI

Commission shall prescribe the manner and designate the place of posting the tariffs of charges; and every railroad shall post within ten days after approval and keep posted in the manner and at a place designated by commission at each
1884 of its depots, its tariffs of charges for the transportation of passengers and freight including joint charges with all connecting lines if so ordered together with commission's certificate of approval and all classification notices and orders promulgated by commission and directed to be posted. *Code 1906, as amended, sec. 4846.*

MISSOURI

Every common carrier shall print and keep for public inspection schedules showing the rates for freight which such carrier has established and which are in force at the time
1885 upon the railroad or railroads operated by it. Copies of such schedules and also all rules and regulations, if any, shall be kept posted in every depot or station upon such road in such place where the same can be conveniently inspected by every person interested in the same. *Rev. Stats. 1909, sec. 3187.*

The manager of every public warehouse or public elevator shall be required within 30 days after the passage of this article and during the first week in January of each year thereafter, to
1885 publish in one or more of the newspapers published in the vicinity in which such warehouse or elevator is situated, a schedule of rates for the transferring, handling or storing of grain in his warehouse or elevator during the ensuing year. *Same, sec. 6794.*
See also par. 809.

MONTANA

When any schedules shall have been made or revised it shall be the duty of commission to cause notice thereof to be published for two successive weeks in some newspaper published in the city of Helena, which notice shall state the date of
1887 taking effect of such schedule and such schedule shall take effect at the time so stated in such notice, and a printed notice of such schedule shall be conspicuously posted by such common carrier in each freight office and passenger depot upon its lines. *Rev. Codes 1907, sec. 4379.*

Each railroad shall display in a conspicuous place in each of
1888 its stations in the state a schedule printed in plain legible English type showing all classifications and rates fixed and established by commission. *Same.*

Any failure or refusal on the part of any railroad to comply
1889 with the provisions of this section shall subject such railroad to a

penalty of not less than \$100 nor more than \$500 for each day that such failure or neglect is continued. *Same.*

NEBRASKA

Every railway company or common carrier shall print and keep for public inspection, schedules showing the
1890 rates, fares and charges for the transportation of passengers and freight which have been fixed and established and which are in force at the time upon its railroad or railroads. *Cobbey's Annot. Stats. 1909, sec. 10656.*

Said schedules are to be plainly printed in large type of at least the size of ordinary pica, and a copy for the use of the public shall be kept in every freight office and passenger station
1891 on such road where it can be conveniently inspected, and such railway company or common carrier shall keep a printed notice posted in every such freight office and passenger station, indicating where therein the same can be found. *Same.*

Said schedules shall have printed at the top thereof in black faced type the words "Schedule A," "Schedule B," etc., and shall also have printed thereon immediately following said words the date when such schedule or schedules went into effect, and when commission have revised, annulled or modified any rate or
1892 rates in said schedules so designated, said railway company or common carrier shall prepare another schedule showing the rate or rates so annulled, revised or modified and the classification thereof, which shall be designated by printed words at the top thereof as "Supplemental Schedule A," etc., and when the rate or rates therein set forth are in force and effect. *Same.*

NEVADA

Copies of schedules shall be printed in plain large type at least the size of ordinary pica and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered, and no such schedule shall be changed in any particular except by the sub-
1893 stitution of another schedule containing the substitutions above required, which substitute schedule shall plainly state the time when it shall go into effect and copies of which printed as aforesaid shall be posted as above provided at least five days before the same shall go into effect and shall remain in full force until another schedule shall be substituted. *Comp. Laws 1900, sec. 1036.*

Two copies of schedules for the use of the public shall be filed and kept on file in every depot, station and office of railroads
1894 where passengers or freight are received for transportation in such form and place as to be accessible to the public and where they can be conveniently inspected. *Stats. 1907, ch. 44, sec. 4.*

NEW YORK

Schedules shall be plainly printed in large type and a copy thereof shall be kept by every carrier readily accessible to and for convenient inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation when such station or
1895 office is in charge of an agent, and in every station or office of such carrier where passenger tickets for transportation or tickets covering sleeping or parlor car or other train accommodation are sold or bills of lading or receipts for property are issued. All or any of such schedules kept as aforesaid shall be immediately produced by such carrier for such inspection upon the demand of any person. *Laws 1910, ch. 480, sec. 28.*

Telegraph or telephone corporation schedules shall be
1895 plainly printed and kept open to public inspection. *Same, sec. 92(1).*

See also pars. 1635, 1637.

NORTH CAROLINA Commission shall publish the rates or a summary thereof of common carriers in some convenient form for the
1897 information of the public, and quarterly thereafter the changes made in such schedules if they deem it advisable. *Pell's Revisal 1908, sec. 1109.*

NORTH DAKOTA Provisions for railroads, railroad corporations or common carriers substantially identical with pars. 1573, 1574, 1575, 1576, except that "shall be kept in every freight office and
1898 passenger station (depot)" reads "shall be kept in every freight, express or receiving office or passenger station (depot)." *Rev. Codes 1905, secs. 4339, 4342, 4343, as amended by Laws 1911, ch. 255, sec. 2.*

OHIO

Two copies of schedules, in such form and place as to be accessible for inspection by the public, shall be filed and
1899 kept on file in every depot, station and office of all railroads where passengers or freight are received for transportation. *Code 1910, sec. 506.*

The schedules of every public utility shall be plainly printed and kept open to public inspection. Commission may establish rules and regulations for keeping such schedules open to public inspection, and may, from time to time, modify the same. A
1899 copy of such schedules or so much thereof as commission may deem necessary for the use and information of the public, shall be printed in plain type and kept on file or posted in such places and

in such manner as commission may order. *Laws 1911, no. 325, sec. 18.*

OKLAHOMA

In order to ascertain what the regular charges of such companies are, all railroad, express, telegraph and telephone companies doing business in the state are required to keep in all their offices in the state a schedule of the regular rates charged by them, which shall be open to the inspection of any person interested therein. *Sess. Laws 1908, ch. 13, art. 3, sec. 3.*

Any agent of any railroad, express, telegraph or telephone company who shall fail or refuse to show the schedule of rates of said company to any person or persons interested therein, and allow him or them to examine the same, as provided in section 3, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than \$100 nor more than \$500. *Same, sec. 5.*

OREGON

Two copies of schedules for the use of the public shall be filed and kept on file in every depot, station and office of railroads where an agent is maintained, which schedule shall be in such form and place as to be accessible to the public and can be conveniently inspected. *Gen. Laws 1907, ch. 53, sec. 13.*

A copy of so much of the schedules of every public utility filed with commission as commission may deem necessary for the use of the public shall be printed in plain type and kept on file in every station or office of such public utility where payments are made by the consumers or users, open to the public in such form and place as to be readily accessible to the public and as can be conveniently inspected. *Gen. Laws 1911, ch. 279, sec. 27.*

PENNSYLVANIA

See par. 1642.

RHODE ISLAND

A copy of so much of the schedules filed with commission as commission shall deem necessary for the use of the public shall be printed in plain type or typewritten and kept on file in every station or office of such public utility where payments are made by the consumers or users, open to the public in such form and place as to be readily accessible and conveniently inspected, and as commission may order. *Acts 1912, ch. 795, sec. 48.*

SOUTH CAROLINA

When any schedule shall have been made or revised, all railroad companies shall post at all their respective stations, a copy of said schedule for the protection of the people. *Gen. Stats. 1902, sec. 2093.*

Any railroad corporation which shall fail to post at any of its stations a copy of the schedule of rates, as provided in this
1607 section shall be liable to a penalty of \$100 for each and every day in which it shall fail to post such schedule, to be recovered by any citizen who will sue therefor, one-half of such penalty to go to the state, the other half to the citizen suing for the same. *Same.*

SOUTH DAKOTA When any schedule shall have been made or revised as provided by law, commission shall cause notice thereof to be published for two successive weeks in two public newspapers published, one in the county of Minnehaha and one in the county
1608 of Lawrence, in the state, which notice shall state the date of the taking effect of said schedule, and said schedule shall take effect at the time so stated in such notice, and a printed copy of said revised schedule shall be conspicuously posted by any common carrier in each freight office and passenger depot upon its line or lines. *Rev. Pol. Code 1903, sec. 450.*

Every common carrier shall print and keep for public inspection schedules showing the rates, fares and charges for the
1609 transportation of passengers, property, express and messages by telephone which any such common carrier has established and which are in force at the time upon its lines. *Sess. Laws 1911, ch. 207, sec. 10.*

Such schedules shall be plainly printed in large type of at least the size of ordinary pica and a copy for the use of the public shall be kept in every freight office, passenger station, express
1610 office and telephone office of such common carrier where it can be conveniently inspected, and such common carrier shall keep a printed notice posted in every such freight office, passenger station, express office and telephone office indicating where therein such schedules can be found. *Same.*

Joint rates, fares and charges on continuous lines filed with commission shall be made public by common carriers when directed by commission, filing in the office of commission correct examined copies of all contracts or agreements existing or here-
1611 after made affecting any state, interstate, or proportional charge or rate any part of which affects or goes to make up a rate charged in the state; but no common carrier party to such joint tariff shall be liable for the failure of any other common carrier party thereto to observe and adhere to the rates, fares and charges made and published. *Same.*

A printed copy of the schedules revised by commission shall
1612 be conspicuously posted by common carriers in each freight

office, passenger depot, express office and telephone office upon their line or lines. *Same, sec. 20.*

Copies of all existing schedules shall be posted in every station or exchange of every telephone company within the state and thereafter printed copies of all new schedules shall be like-
1612 wise posted in every station of such telephone company within the state 30 days prior to the time the same shall take effect, and shall be accessible for public inspection. *Sess. Laws 1909, ch. 289, sec. 6, as amended by Sess. Laws 1911, ch. 218, sec. 4.*

TENNESSEE Every railway company shall keep a plain intelligible schedule of freight rates and freight classifications from
1614 all points on its road printed and posted up in a conspicuous place accessible to the public, at every depot on its road. *Code 1906, sec. 3062.*

It shall be the duty of railroad companies or other persons operating any railroad in the state to post at each of its depots,
1615 all rates, schedules and tariffs for the transportation of passengers and freights made or approved by commission with certificate of approval in some conspicuous place at the depot. *Acts 1897, ch. 10, sec. 22.*

TEXAS Each railroad company shall cause schedules of rates to be printed in type of a size not less than pica, and shall
1616 have the same posted up in a conspicuous place at each of its depots so as to be inspected by the public. *Sayles' Civ. Stats. 1897, art. 4567.*

VERMONT Every railroad corporation shall post conspicuously in all its depots, stations and offices in the state, a notice that its schedules of rates are on file in said offices and can
1617 be seen on application to the person in charge, and such schedule may be inspected by any person upon application and without the assignment of any reason therefor. *Pub. Stats. 1906, sec. 4533.*

Every express company shall post up in its usual place of business and in the post office and town clerk's office in the towns where it has a place of business, and keep exhibited in a convenient place, in conspicuous letters a printed tariff of charges
1618 for transportation of goods and chattels between points with which such express company has business or connection. Every telegraph company shall in like manner make known rates of charges for the transmission of telegraphic dispatches. *Same, sec. 4865.*

Every company shall keep on file in every station or office thereof where payments are made by consumers or users, open to
1619 the public and in such form and place as to be readily accessible to inspection by the public, a copy printed in plain type of so much of its schedules as commission shall deem necessary. *Laws 1908, no. 116, sec. 19.*

VIRGINIA Every transportation company shall print and keep open to public inspection, schedules showing the rates, fares
1620 and charges for the transportation of passengers and property which have been established and which are in force at the time upon its route. *Pollard's Code 1904, sec. 1294c(5).*

Such schedules shall be plainly printed in large type and copies for the use of the public shall be posted or exhibited in two
1621 public and conspicuous places in every depot, station or office of such company where passengers or freight respectively are received for transportation, and in such form that they shall be accessible to the public and can be conveniently inspected. *Same.*

WASHINGTON A provision identical with par. 1595. *Laws 1622 1911, ch. 117, sec. 14.*

A schedule shall be plainly printed in large type and a copy thereof shall be kept by every telephone and telegraph company readily accessible to and for convenient inspection by the public at such places as may be designated by commission, which sched-
1623 ule shall state the rates charged from such station to every other station on such company's line or on any line controlled and used by it within the state. All or any of such schedules kept as afore-said shall be immediately produced by such telephone or telegraph company upon the demand of any person. *Same, sec. 36.*

WISCONSIN A provision identical with par. 1594; also a
1624 provision identical with par. 1604. *Laws 1905, ch. 362, sec. 1797-4. Laws 1907, ch. 499, sec. 1797m-29.*

D. THE FORMS OF SCHEDULES.

UNITED STATES Commission may determine and prescribe the form in which the schedules required by this section to be kept
1625 open to public inspection shall be prepared and arranged and may change the form from time to time if it shall be found expedient. *Act to Regulate Commerce, sec. 6.*

ALABAMA

Commission may prescribe such changes in the form in which the schedules shall be issued by common carriers
1896 as may be found expedient. *Acts 1909, sp. sess., no. 201, sec. 1(5).*

ARIZONA, CALIFORNIA

The form of every schedule shall be prescribed by commission and shall conform in the case of common carriers subject to the act entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, as nearly as may be to the form of schedules prescribed by the interstate commerce commission under said act. *Ariz.—Sess. Laws 1912, ch. 90, sec. 14(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 14(a).*

Commission may from time to time in its discretion determine and prescribe by order such changes in the form of the schedules referred to in this section as it may find expedient, and modify the requirements of any of its orders, rules or regulations in respect to any matters in this section referred to. *Ariz.—Same, sec. 14(c); Cal.—Same, sec. 14(c).*

See also par. 1454.

COLORADO

Commission may determine and prescribe the form in which the schedules required by this act to be kept open to the public inspection, shall be prepared and arranged and may
1893 change the same from time to time as may be deemed expedient, but the form of such schedule shall conform as nearly as practicable to the forms required by the interstate commerce commission. *Laws 1910, sp. sess. ch. 5, sec. 7.*

INDIANA

All schedules of rates shall be in such form as
1890 shall be prescribed by the interstate commerce commission. *Acts 1911, ch. 225, sec. 1.*

MARYLAND

The form of every schedule shall be prescribed by commission, and shall conform as nearly as possible to the form of schedules required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce," approved February 4, 1887, as amended by the act approved June 29, 1906, and other amendments thereto. Commission shall have power from time to time, at its discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient. *Laws 1910, ch. 180, sec. 15.*

MICHIGAN

Substantially identical with par. 1629. *Pub. Acts, 1911, no. 139, secs. 10(d), 10(e).*

NEVADA

Commission may prescribe such changes in the form in which the schedules are issued by the railroad as may be found expedient, and such schedules shall, as far as practicable, conform to the forms prescribed by the interstate commerce commission. *Stats. 1907, ch. 44, sec. 4(d).*

Each public utility is required to conform its schedule of rates, tolls and charges to the classifications of service prescribed by commission for which schedules commission may, when necessary, prescribe the forms. *Stats. 1911, ch. 162, sec. 13.*

NEW HAMPSHIRE *See par. 1486.*

NEW YORK

The form of every schedule shall be prescribed by commission and shall conform in the case of railroad corporations as nearly as may be to the form of schedule required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce" approved February 4, 1887, and the acts amendatory thereof and supplementary thereto. Where any similar schedule is required by law to be filed with both commissions they shall agree upon an identical form for such schedules. Commission may from time to time, in its discretion, determine and prescribe by order such changes in the form of such schedules as may be found expedient, and modify the requirements of this section in respect to publishing, posting and filing of schedules either in particular instances or by general order applicable to special or peculiar circumstances or conditions. *Laws 1910, ch. 480, sec. 28.*

Commission may prescribe the form of every schedule of gas and electric corporations and from time to time prescribe by order such changes in the form thereof as may be deemed wise. Commission may also establish such rules and regulations to carry into effect the provisions of this subdivision as it may deem necessary, and modify or amend such rules or regulations from time to time. *Same, sec. 66(12).*

Commission may prescribe the form of every telephone and telegraph schedule, and may from time to time prescribe, by order, changes in the form thereof. Commission shall also have power to establish rules and regulations for keeping such schedules open to public inspection and may from time to time modify the same. *Same, sec. 92(1).*

OHIO

Commission may prescribe such changes in the form in which schedules are issued by a railroad as may be found expedient. Such schedules, as far as practicable, shall conform to the forms prescribed by the interstate commerce commission. *Code 1910, sec. 511.*

Commission may prescribe the form of every schedule, and may, from time to time, prescribe, by order, changes in the form thereof. *Laws 1911, no. 325, sec. 18.*

OREGON

Commission may prescribe such changes in the form in which the schedules are issued by the railroad as may be found expedient. *Gen. Laws 1907, ch. 53, sec. 17.*

Commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient. *Gen. Laws 1911, ch. 279, sec. 32.*

PENNSYLVANIA

Commission may recommend the form in which schedules or tariffs of rates, fares, charges, and distribution of cars shall be posted and published, and make such change or changes therein, from time to time, as shall be found expedient. *Laws 1907, no. 250, sec. 14.*

RHODE ISLAND

Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, provided, that with respect to public utilities subject to the federal "act to regulate commerce," so called, the form of such schedules shall be that from time to time prescribed by the interstate commerce commission. *Acts 1912, ch. 795, sec. 48.*

WASHINGTON

The form of every schedule shall be prescribed by commission and shall conform in the case of railroad companies as nearly as may be to the form of schedules required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto. *Laws 1911, ch. 117, sec. 14.*

WISCONSIN

Identical with pars. 1640, 1641. *Laws 1905, ch. 362, sec. 1797-4(d). Laws 1907, ch. 499, sec. 1797m-34.*

E. FILING, PUBLISHING AND POSTING OF SCHEDULES AS A CONDITION PRECEDENT TO THE EXERCISE OF THE RIGHT TO DO BUSINESS.

UNITED STATES No carrier shall engage or participate in the transportation of passengers or property unless the rates, fares
1846 and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this act. *Act to Regulate Commerce, sec. 6.*

Under the interstate commerce act an initial carrier which has become a party to a joint through rate for transportation of property over its own and connecting lines from one point to another cannot accept goods for shipment between the same points via other lines at a less than that published rate. *United States vs. Vacuum Oil Co., 153 Fed. 598.*

ARIZONA, CALIFORNIA

No common carrier shall engage or participate in the transportation of persons or property between points within
1847 this state until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act. *Ariz.—Sess. Laws 1912, ch. 90, sec. 17(a)(1); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 17(a)(1).*

INDIANA

It is hereby declared to be unlawful for any carrier to transport any passengers or property between points
1848 in this state, or to perform any other service as a common carrier without first having filed with commission, a schedule of the rates which it proposes to charge for such service. *Acts 1907, ch. 241, sec. 9(b).*

It is declared to be unlawful for any carrier to transport any passenger or property between points in the state or to perform any other service as a common carrier without first having filed with commission a schedule of the rates which it proposes to charge for any such service; provided that in special cases where it is necessary for property to be transported or other service as a common carrier to be tendered at once by such carriers, and no rates for the transportation of the same or such other service are applicable thereto and the emergency is such that a rate therefor
1849 cannot be published and filed according to law, commission may, upon the request of any interested carrier or shipper permit the carrier to transport such property or tender such service upon a rate or rates then determined by commission, or in its discretion commission may permit such transportation or other service, the

rate to be thereafter reasonably adjusted by the shipper and carrier subject to the approval of commission; provided that said carrier shall as soon as possible after making such request of commission, file with it the schedule of rates covering the future transportation of such property or such other service performed as a common carrier. *Acts 1911, ch. 225, sec. 1(b).*

MARYLAND No common carrier shall after November 1, 1910, engage or participate in the transportation of passengers, freight or property between points within the state until its schedules of rates, fares and charges shall have been filed and published in accordance with the provisions of this act. *Laws 1910, ch. 180, sec. 16.*

MICHIGAN Identical with par. 1646. *Pub. Acts 1911, no. 139, sec. 10(f).*

SOUTH DAKOTA Every telephone company must before commencing to charge, collect or receive any rate or charge for the transmission of any messages or for any service in connection therewith or for the rent of any line or instrument or facility of any kind, file with commission a full, true and correct schedule or tariff showing every such rate or charge and a correct examined copy verified by such telephone company, its officers or authorized agents of every franchise and license granted to such company by any municipality in this state or assigned to it by any grantee thereof and still remaining in force, as well as a true, full and correct copy of any contract or agreement entered into by such company with any municipality, telephone company or companies within 20 days after the granting or assignment of such franchise or license, or making of such contract or agreement. Such copies shall be duly certified as full, true and correct by the president, secretary or managing agent of such company. Provided that all filings heretofore made with the board of telephone commissioners as required by chapter 239 of the Session Laws of 1907 shall in so far as they meet the requirements of this act be deemed as filed with the board of railroad commissioners at the time of taking effect of this act. *Sess. Laws 1909, ch. 289, sec. 4, as amended by Sess. Laws 1911, ch. 218, sec. 2.*

See also par. 3129.

F. PUBLICITY OF CHANGES BY UTILITIES IN RATES AND SCHEDULES.

UNITED STATES No change shall be made in the rates, fares and charges or joint rates, fares and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after 30 days' notice to commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares or charges will go into effect; and the proposed changes shall be
1653 shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection; provided that commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. *Act to Regulate Commerce, sec. 6.*

ALABAMA No change shall be made by any common carrier in the rates, fares and other charges or joint rates, fares and charges, which have been filed and published by it, or which are in force at the time, until the proposed changes have been submitted to and approved by an order of commission. After such
1694 approval such changes shall, before the same shall become effective, be plainly indicated upon existing schedules or by filing and posting new schedules for a period of ten days prior to the time the same are to take effect; but commission may prescribe a shorter period within which such changes shall take effect. *Code 1907, sec. 5525.*

Whenever a change has been made and approved in any existing schedule of rates, fares and charges, or joint rates, fares and charges, a notice shall be posted by the common carrier in a conspicuous place so as to be accessible to the public and
1695 conveniently inspected, in every depot, station or office where passengers or freight are received for transportation, which is affected by said change or to which the same is applicable, stating the changes which have been made in the schedule on file and specifying the class or commodity affected, the change made, and the date when such change shall take effect. *Same, sec. 5526.*
See also par. 896.

ARIZONA, CALIFORNIA

Unless commission otherwise orders no change shall be made by any public service corporation¹ in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, toll, fare, rental, charge, classification or service, or in any privilege or facility, except after 30 days' notice to commission and to the public as herein provided. Such notice shall be given by filing with commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. Commission for good cause shown
1656 may allow changes without requiring the 30 days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, toll, fare, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with commission by some character to be designated by commission, immediately preceding or following the item. *Ariz.—Sess. Laws 1912, ch. 90, sec. 15; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 15.*

COLORADO No change shall be made in the rates, fares and charges, or joint rates, fares and charges, which have been filed and published by any common carrier in compliance with the requirements of this act except after 30 days' notice to commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the
1657 schedule then in force and the time when the changed rates, fares or charges will go into effect; provided that commission may in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this act in respect to publishing, posting and filing of tariffs either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. *Laws 1910, sp. sess., ch. 5, sec. 7.*

ILLINOIS No change in any schedule of rates or charges, or classification shall become effective until it has been filed with

¹ "Public utility," in California.

commission, and until after five days shall have elapsed between
1653 the date of filing and the time when such rates are to become
effective if the rates are to be reduced, and 30 days if the rates
are to be advanced; provided, commission may, in its discretion
and for good cause shown, allow changes upon less than the notice
herein specified. *Revisal 1909, ch. 114, sec. 370.*

INDIANA

No change shall be made in any schedules or
tariffs after the same have been filed, or in any classification of
freight, except upon ten days' notice to commission, and all such
changes shall be plainly indicated upon the schedule so filed or by
filing new schedules in lieu thereof, ten days prior to the time
same are to become effective; provided, commission upon appli-
1659 cation by any carrier, may prescribe a less time within which a
reduction in any such rate may be made. Copies of all such
new schedules so changing rates shall be filed in every depot at
least two days before the same go into effect. All schedules of
rates and all rules and regulations for the transportation of
passengers and property which shall be adopted by commission,
or which shall be ordered observed by any court, shall also be
filed in such depots as herein directed. *Acts 1911, ch. 225, sec. 1.*

IOWA

No advance shall be made in the rates, fares
and charges which have been established and published by any
common carrier, except after ten days' public notice, which shall
plainly state the changes proposed to be made in the schedule
then in force at the time and kept for public inspection. Re-
1660 duction in such published rates, fares or charges may be made
without previous public notice, but when made, notice thereof
shall be immediately and publicly posted, and such changes
made public by printing new schedules, or to be plainly indica-
ted, upon the schedules at the time in force and kept for public
inspection. *Code 1897, sec. 2128.*

KANSAS

Whenever any common carrier or public utility
shall desire to make any change in any rate, joint rate, toll,
charge or classification or schedule of charges, or in any rule or
regulation or practice pertaining to the service or rates of any
such public utility or common carrier, such public utility or
common carrier shall file with commission a schedule showing
the changes desired to be made and put in force by such public
utility or common carrier, and such changes shall be plainly
indicated by proper reference marks in amendments or supple-
1661 ments to existing tariffs, schedules or classifications, or in new

issues thereof. No change shall be made in any rate, toll, charge or classification or schedule of charges, joint rates, or in any rule or regulation or practice pertaining to the service of rates of any public utility or common carrier, without the consent of commission and within 30 days after such changes have been authorized by commission, then copies of all tariffs, schedules and classifications, and all rules and regulations, shall be filed in every station, office or depot of every public utility and every common carrier in this state, for public inspection. *Laws 1911, ch. 238, sec. 20.*

MARYLAND

Unless commission otherwise orders, no change shall be made in any rate, fare or charge, or joint rate, fare or charge, which shall have been filed and published by a common carrier in compliance with the requirements of this act, except after 30 days' notice to commission and publication for 30 days, as required by section 25 of this act, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, fare or charge will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Commission, for good cause shown, may allow changes in rates without requiring the 30 days' notice and publication herein provided for, by duly filing and publishing in such manner as it may direct, an order specifying the change so made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedules by the common carrier. *Laws 1910, ch. 180, sec. 15.*

MICHIGAN

No change shall be made in the schedule of rates, fares or charges or joint rates, fares or charges which have been filed and published by common carriers in compliance with the requirements of this section, except after ten days' notice to commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule of rates, fares or charges or joint rates, fares or charges, then in force and the time when such changed rates, fares or charges or joint rates, fares or charges will go into effect, and no such rates, fares or charges or joint rates, fares or charges shall be discontinued except after giving such notice as is required for changing rates, fares or charges or joint rates, fares or charges; and the proposed changes in such rates, fares, or charges or joint rates,

fares or charges shall be shown by printing and filing new tariffs thereto or by showing such changes or discontinuance by issuing and filing of supplements in the regular manner now provided and keeping same open to public inspection; provided, that commission may, in its discretion and for good cause shown, allow changes upon less time than the notice herein specified, or modify the requirements in this section in respect to publishing, posting and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. *Pub. Acts 1911, no. 139, sec. 10(b).*

See also par. 943.

MINNESOTA

No change in the classification shall be made, and no change shall be made in the rates, fares and charges, which have been established and published by any common carrier, in compliance with section 2012, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated
1664 upon the schedules in force at the time and kept for public inspection. And no change shall be made in any schedule of rates or schedule of joint rates which has been in effect for 60 days, so as to raise the rates for transportation of grain, lumber, coal or live stock by change of rates or of classification, except upon the written order of commission allowing such change, made upon hearing and such notice to shippers as commission shall direct. Any company violating any provision of this section shall forfeit to the state \$100 for each day such violation shall continue. *Rev. Laws 1905, sec. 2013.*

All common carriers shall, whenever any new tariff or classification or any amendment to any tariff or classification is published either by itself or commission, post in a conspicuous place
1665 in every depot where the public would be affected, a notice printed in large type stating that changes have been made, indicating upon what articles or commodities and where the new tariff classification or amendment may be seen. *Acts 1905, ch. 176, sec. 2.*

MISSOURI

No railroad company shall advance its rates for carrying freight without having first given at least 20 days'
1665 notice of such change, by posting the schedule to which it is proposed to change the rates in at least three conspicuous places

on each of the freight and passenger depots belonging to the company proposing the change. *Rev. Stats. 1909, sec. 3133.*

Any person or company operating a railroad in the state who shall fail to comply with the provisions of the preceding section shall for each offense forfeit \$500 to the use of the common school fund of the county, to be collected by civil action in the circuit court of any county through which the road belonging to such person or company may run; such suit may be instituted by any person injured by such violation, or by the prosecuting attorney of the county where the suit is brought. *Same, sec. 3134.*

No advance shall be made in the rates, fares and charges which have been established and published by any common carrier in compliance with the requirements of law, except after ten days' notice which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares and charges will go into effect; and the proposed changes shall be plainly indicated upon the schedules in force at the time, and kept for public inspection in like manner as herein provided. Reductions in such published rates, fares and charges may be made without previous public notice, but whenever any such reduction is made, notice of the same shall be immediately publicly posted, and the changes made shall be immediately plainly indicated upon the schedules in force at the time and kept for public inspection, and copies of the schedules containing such changes shall be forthwith filed with commission. Such changed schedules shall become the established schedules from the date of such public notice until changed as herein provided for changing schedules of rates, fares and charges. *Same, sec. 3187.*

NEVADA

No change shall be made in any schedule, including schedule of joint rates, or in any classification, except upon 30 days' notice to commission, and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 30 days prior to the time the same are to take effect; provided commission upon application of any railroad, may prescribe a less time within which a reduction may be made. Copies of all new schedules shall be filed in every depot, station and office of such railroad ten days prior to the time the same are to take effect, unless commission shall prescribe a less time. *Stats. 1907, ch. 44, sec. 4(a).*

Whenever a change is made in any existing schedule in-

cluding schedule of joint rates, a notice shall be posted by the
1670 railroad in a conspicuous place in every depot, station and office
stating that changes have been made in the schedule on file,
specifying the class or commodity affected and the date when the
same will take effect. *Same, sec. 4(b).*

See also par. 981.

NEW HAMPSHIRE Unless commission otherwise orders, no change
shall be made in any rate, fare, charge or price, which shall have
been filed and published by a railroad corporation or public utility
1671 in compliance with the requirements of this section except after
30 days' notice to commission and such notice to the public as
commission within ten days after receipt of the notice aforesaid
shall direct. *Laws 1911, ch. 164, sec. 7(b).*

NEW MEXICO Unless commission otherwise orders no change
shall be made in any classification, rate, fare, charge, rule or reg-
ulation which shall have been filed and published by such company
or common carrier in compliance with the preceding section, ex-
cept after 30 days' notice to commission and to the public pub-
lished as aforesaid, which shall plainly state the changes proposed
1672 to be made in the schedule then in force, and the time when the
changed rate, classification, fare or charge will go into effect; and
all proposed changes shall be shown by printing, filing and pub-
lishing new schedules or shall be plainly indicated upon the
schedules in force at the time and kept open to public inspection.
Commission, for good cause shown, may by order allow changes
in rates without requiring the 30 days' notice and the publi-
cation herein provided for. *Laws 1912, ch. 78, sec. 17.*

NEW YORK A provision for common carriers identical with
1673 par. 1662. *Laws 1910, ch. 480, sec. 29.*

Unless commission otherwise orders, no change shall be
made in any rate or charge, or in any form or contract or agree-
ment or any rule or regulation relating to any rate, charge or
service, or in any general privilege or facility, which shall have
been filed and published by a gas or electrical corporation in
compliance with an order of commission, except after 30 days'
notice to commission and publication for 30 days as required by
1674 order of commission, which shall plainly state the changes pro-
posed to be made in the schedule then in force and the time
when the change will go into effect. Commission for good cause
shown may allow changes without requiring the 30 days' notice
under such conditions as it may prescribe. Commission shall

also have power to establish such rules and regulations to carry into effect the provisions of this subdivision as it may deem necessary, and to modify or amend such rules or regulations from time to time. *Same, sec. 66(12).*

Unless commission otherwise orders no change shall be made in any rate, charge or rental, or joint rate, charge or rental which shall have been filed by a telegraph or telephone corporation in compliance with the requirements of this chapter, except after 30 days' notice to commission, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rate, charge or rental shall go
1676 into effect; and all proposed changes shall be shown by filing new schedules or shall be plainly indicated upon the schedules filed and in force at the time and kept open to public inspection. Commission, for good cause shown, may allow changes in rates, charges or rentals without requiring the 30 days' notice, under such conditions as it may prescribe; all such changes shall be immediately indicated upon its schedules by such telegraph or telephone corporation. *Same, sec. 92(2).*

NORTH DAKOTA No advance shall be made in the rates, fares and charges which have been established and published by any railroad, railroad corporation or common carrier in compliance with the requirements of this article, except after ten days' notice in writing to commission, which shall plainly state the changes proposed to be made in the schedules then in force and the time when the increased rates, fares or charges will go into effect; and the proposed changes shall be shown by printing new
1676 schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reduction in such published rates, fares or charges may be made without previous notice, but whenever any such reduction is made, notice of the same shall immediately be publicly posted, and the change made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection. *Rev. Codes 1905, sec. 4340.*

OHIO No change shall be made in any schedule, including schedule of joint rates, or in any classification, except upon ten days' notice to commission. All such changes shall be plainly indicated upon existing schedules, or by filing new sched-
1677 ules ten days prior to the time they are to take effect, but com-

mission, upon application of any railroad, may prescribe a less time within which a reduction may be made. Copies of all new schedules shall be filed in every depot, station and office of such railroad ten days prior to the time they are to take effect, unless commission shall prescribe a less time. *Code 1910, sec. 508.*

When a change is made in an existing schedule including schedules of joint rates, the railroad shall post a notice in a conspicuous place in every depot, station and office stating that changes have been made in the schedules on file, specifying the class or commodity affected and the date when such changes will take effect. *Same, sec. 509.*

Unless otherwise ordered by commission, no change shall be made in any rate, joint rate, toll, classification, charge or rental in force at the time this act takes effect, or as shown upon the schedules which shall have been filed by a public utility in compliance with the requirements of this act, or by order of commission, except after 30 days' notice to commission, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the change, rate, charge, toll, classification or rental shall go into effect; and all proposed changes shall be plainly indicated upon existing schedules, or by filing new schedules 30 days prior to the time they are to take effect, but commission may prescribe a less time when they may take effect. *Laws 1911, no. 325, sec. 22.*

See also par. 1002.

OREGON Provisions for railroads substantially identical with pars. 1677, 1678. *Gen. Laws 1907, ch. 53, secs. 14, 15.*

No change shall be made in any schedule, including schedules of joint rates, except upon ten days' notice to commission, and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof ten days prior to the time the same are to take effect; provided, that commission upon application of any public utility, may prescribe a less time within which a reduction may be made. *Gen. Laws 1911, ch. 279, sec. 29.*

Copies of all new schedules shall be filed in every station and office of such public utility where payments are made by consumers or users ten days prior to the time the same are to take effect, unless commission shall prescribe a less time. *Same, sec. 30.*

See also par. 1012.

RHODE ISLAND

No change shall be made in the rates, tolls and charges which have been filed and published by any public utility, in compliance with the requirements of this section, except after 30 days' notice to commission and the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the
1683 changed rates, tolls or charges will go into effect; provided, that commission may in its discretion and for good cause shown, allow changes within less time than required by the notice herein specified, or modify the requirements of this section in respect to filing and publishing tariffs either in particular instances or by a general order applicable to special or particular circumstances or conditions. *Acts 1912, ch. 795, sec. 48.*

SOUTH DAKOTA

No advance shall be made in the rates, fares and charges or in joint rates, fares and charges, which have been established and published by any common carrier, or established or ordered into effect at the time this act shall take effect by commission in compliance with the requirements of this section, except after 30 days' notice to commission and the public, which shall plainly state the changes proposed to be made in the schedules then in force, and the time when the increased rates, fares or charges are desired, and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the
1684 schedules in force at the time and kept for public inspection. Commission may suspend the proceedings of such application for 90 days after the date fixed for the first hearing, and no change shall go into effect until allowed by commission. Reduction in such published rates, fares or charges may be made without previous public notice, but whenever any such reduction is made immediate notice of the same shall be given to commission and the public posted and published as aforesaid, and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection. *Sess. Laws 1911, ch. 207, sec. 10.*

Every telephone company shall file with commission a copy of all proposed changes in any schedule of rates or charges, at
1685 least 30 days before the same shall take effect. *Sess. Laws 1909, ch. 289, sec. 6, as amended by Sess. Laws 1911, ch. 218, sec. 4.*

No rate or charge for the transmission of any message or for any other service in connection with any telephone line or ex-
1686 change shall be increased without the written consent of commis-

sion entered in the journal of its proceedings; provided, that all terminal fees for incoming or outgoing toll messages shall be uniform.¹ *Same.*

VERMONT

The rates, tariffs and charges scheduled and kept in offices shall not be increased, unless notice of the proposed increase is filed with commission and in such offices at least 30
1687 days prior to the time such increase is to take effect. But commission may, for good cause shown, modify the requirements of this section in particular instances, or by a general order applicable to special circumstances or conditions. *Pub. Stats. 1906, as amended, sec. 4533.*

No change shall be made in any schedules, including schedules of joint rates, or in any rules or regulations, except upon ten days' notice to commission; and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules
1688 in lieu thereof ten days prior to the time the same are to take effect; provided, that commission upon application of any company subject to the provisions of this act, may prescribe a shorter time within which such reduction or change may be made. *Laws 1908, no. 116, sec. 18.*

VIRGINIA

No advance shall be made in the rates, fares and charges which have been established and published, until the same are submitted to and approved by commission, and when so advanced ten days' public notice thereof shall be given, which
1689 shall plainly state the changes made in the schedule then in force, and the time when the increased rates and fares and charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection. *Pollard's Code 1904, sec. 1294c(6).*

WASHINGTON

Unless commission otherwise orders no change shall be made in any classification, rate, fare, charge, rule or regulation which shall have been filed and published by a common carrier in compliance with the preceding section, except after 30 days' notice to commission and to the public, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, classification, fare or charge will go into effect; and all proposed changes shall be shown

¹ It is further provided that the maximum charge on each incoming or outgoing toll message shall not exceed five cents for any message originating or terminating in South Dakota, unless otherwise ordered by commission. *Sess. Laws 1909, ch. 289, sec. 6, as amended by Sess. Laws 1911, ch. 218, sec. 4.*

by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Commission, for good cause shown, may by order allow changes in rates without requiring the 30 days' notice and the publication herein provided for. When any change is made in any rate, fare, charge, classification, rule or regulation, the effect of which is to increase any rate, fare or charge then existing, attention shall be directed to such increase by some character on the copy filed with commission immediately preceding or following the item in such schedule, such character to be designated by commission. *Laws 1911, ch. 117, sec. 15.*

Unless commission otherwise orders, no change shall be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by a gas, electrical or water company in compliance with the requirements of the preceding section, except after 30 days' notice, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect; all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Commission for good cause shown, may allow changes without requiring the 30 days' notice by duly filing, in such manner as it may direct, an order specifying the changes so to be made and the time when they shall take effect. All such changes shall be immediately indicated upon its schedules by the company affected. When any change is made in any rate or charge, form of contract or agreement, or any rule or regulation relating to any rate or charge or service, or in any general privilege or facility, the effect of which is to increase any rate or charge then in existence, attention shall be directed on the copy filed with commission to such increase by some character immediately preceding or following the item in such schedule, such character to be in form as designated by commission. *Same, sec. 28.*

Unless commission otherwise orders, no change shall be made in any rate, toll, rental, contract or charge, which shall have been filed and published by any telephone or telegraph company in compliance with the requirements of the preceding section, except after 30 days' notice to commission and the pub-

lication for 30 days as required in the case of original schedules in the preceding section, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, contract or charge will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Commission for good cause shown may allow changes in rates, charges, tolls, rentals or contracts without requiring the 30 days' notice and publication herein provided for, by an order specifying the change so to be made, and the time when it shall take effect, and the manner in which the same shall be filed and published. When any change is made in any rate, toll, contract, rental or charge, the effect of which is to increase any rate, toll, rental or charge then existing, attention shall be directed on the copy filed with commission to such increase by some character immediately preceding or following the item in such schedule, which character shall be in such form as commission may designate. *Same, sec. 37.*

Unless commission otherwise orders, no change will be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by the wharfinger or warehouseman in compliance with the requirements of the preceding section, except by 30 days' notice to commission and publication for 30 days, which schedule shall plainly state the changes to be made in the schedule then in force and the time when the change will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to the public inspection. Commission for good cause shown may allow changes without requiring the 30 days' notice by duly filing in such manner as it may direct an order specifying the changes so to be made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedule by the warehouseman or wharfinger affected. *Same, sec. 48.*

WISCONSIN

No change shall be made in any schedule including schedule of joint rates, or in any classification, unless such change shall be first approved by commission, and all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof, 30 days prior to the time

1004 same are to take effect. Copies of all new schedules shall be filed in every depot, station and office of such railroad at places to or from which the rates in such schedules apply, 30 days prior to the time the same are to take effect, unless commission shall prescribe a less time. *Laws 1905, ch. 362, sec. 1797-4(a), as amended by Laws 1909, ch. 335 and Laws 1911, ch. 160.*

Whenever a change is made in any existing schedule, including schedule of joint rates, a notice shall be posted by the
1005 railroad in a conspicuous place in every depot, station and office, stating that changes have been made in the schedules on file, specifying the class or commodity affected and the date when the same will take effect. *Laws 1905, ch. 362, sec. 1797-4(b).*

All railroads to which an order applies shall make such changes in their schedule on file as may be necessary to make the
1006 same conform to said order, and no change shall thereafter be made by any railroad in any such rates, fares or charges, or in any joint rate or rates, without the approval of commission. *Same, sec. 1797-14(b).*

1007 Also provisions for public utilities identical with pars. 1681, 1682. *Laws 1907, ch. 499, secs. 1797m-31, 1797m-32.*
See also pars. 1045, 1054.

G. INFORMATION AS TO SPECIFIC RATES.

UNITED STATES If any common carrier after written request made on the agent of such carrier hereinafter referred to by any person or company for a written statement of the rate or charge applicable to a described shipment between stated places under the schedules or tariffs to which such carrier is a party, shall refuse or omit to give such written statement within a reasonable time or shall misstate in writing the applicable rate, and if the person or company making such request suffers damage in con-
1008 sequence of such refusal or omission or in consequence of the misstatement of the rate, either through making the shipment over a line or route for which the proper rate is higher than over another available line or route or through entering into any sale or other contract whereunder such person or company obligates himself or itself to make such shipment of freight at his or its cost, then the said carrier shall be liable to a penalty of \$250, which shall accrue to the United States and may be recovered in

a civil action brought by the United States. *Act to Regulate Commerce, sec. 6.*

Every carrier by railroad shall keep at all times conspicuously posted in every station where freight is received for transportation the name of an agent resident in the city, village or town where such station is located to whom application may be made for the information by this section required to be furnished on written request; and in case any carrier shall fail at any time
1693 to have such name so posted in any station it shall be sufficient to address such request in substantially the following form: "The Station Agent of the _____ Company at _____ Station" together with the name of the proper post office, inserting the name of the carrier company and of the station in the blanks, and to serve the same by depositing the request so addressed with the postage thereon prepaid in any post office.
Same.

ARIZONA, CALIFORNIA

A notice printed in bold type and stating that the schedules are on file with the agent and open to inspection by any person and that the agent will assist any person to
1700 determine from such schedules any rates, fares, rules or regulations in force, shall be kept posted by the carrier in two public and conspicuous places in every station or office. *Ariz.—Sess. Laws 1912, ch. 90, sec. 14(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 14(a).*

ILLINOIS

Every express company and carrier by express shall post and keep displayed in each office or place of business of such express company or carrier by express within convenient access and for the inspection and use of the public during customary business hours, a printed notice stating that the agent
1701 will assist any shipper to determine from the schedule on file any rate or fare or rule in force; and every such express company or carrier by express shall quote rates that are lawfully in effect under such schedules in writing when requested and to be responsible for the correctness of the same. *Revisal 1909, ch. 114, sec. 370.*

INDIANA

Every common carrier doing an intrastate business within the state upon written request therefor by any person who is a bona fide prospective shipper or receiver of freight or who has a bona fide interest therein made upon any
1702 general or local freight or station agent of such carrier by any

person, firm or corporation shall furnish and give a written statement of the rate or charge applicable to a described shipment between stated points or places in the state under the schedules or tariffs to which such carrier is a party within a reasonable time. *Acts 1911, ch. 184, sec. 1.*

If such carrier shall refuse or omit to give such statement within a reasonable time or shall misstate in writing the applicable rate and if the person, firm or corporation making such request suffers in consequence of such refusal or omission or in consequence of the misstatement of the rate either through making the shipment over a line or route for which the proper rate is higher than the rate over another available line or route or through entering into any sale, purchase or contract whereunder
1703 such person, firm or corporation obligates himself, themselves or itself or becomes obligated to make or receive such shipment of freight at his, their or its cost, then the said carrier shall be liable to a penalty of not less than \$100 nor more than \$250 which shall accrue to the state and be recovered together with the reasonable attorneys' fees in a civil action by commission, and shall also be liable to the person, firm or corporation injured for the amount of such injury together with six per cent. interest thereon from the date of such injury, and reasonable attorneys' fees. *Same.*

No such liability shall be discharged by such carrier unless the same be approved by commission as being free from any attempt or purpose to evade any other law of the state; and if during the course of any action upon such liability to the person injured it shall appear to the satisfaction of the court or jury
1704 trying any such case that the parties have combined or agreed to obtain or allow any undue advantage or rebate or preference to such injured person, upon a finding to that effect, such case shall be dismissed and the dismissal and finding reported by said court to commission and to the proper prosecuting attorney having jurisdiction of any offense therein involved. *Same.*

Such dismissal shall be taken and deemed a final judgment
1705 and appeal may be taken therefrom or from any other judgment in any such case the same as in other civil cases. *Same, sec. 2.*

No carrier making any settlement or payment upon the approval of commission or pursuant to a judgment or order of
1706 court under these provisions shall be liable for any penalty or forfeiture or subject to any prosecution under any law of the state on account of the said payment or settlement. *Same, sec. 3.*

Commission may require from any person, firm or corpora-

tion any information deemed by commission necessary to the determination of the question whether it shall give its approval to any such claim, and if the same be refused by the injured
1707 person, may decline said claim, and it shall not be sued upon thereafter; if such information be refused or request therefor evaded or the search for information by commission be made difficult by the carrier, commission shall endorse such fact on said claim and it shall thereafter support an action as if approved by commission. *Same, sec. 4.*

NEW YORK A notice printed in bold type and stating that the schedules are on file with the agent and open to inspection by any person and that the agent will assist any such person to
1708 determine from such schedule any transportation rates or fares or rules or regulations which are in force, shall be kept posted by the carrier in two public and conspicuous places in every station or office. *Laws 1910, ch. 480, sec. 28.*

VERMONT The agent or other employe on duty in the office shall give any assistance desired in securing information
1709 from or in interpreting the schedules on file. *Pub. Stats. 1906, sec. 4533.*

WASHINGTON A provision identical with par. 1708. *Laws 1710 1911, ch. 117, sec. 14.*

A notice printed in bold type stating that the schedules are on file and open to inspection by any person, the places where same are kept, and that the agent will assist such person to de-
1711 termine from such schedules any rate, toll, rental, rule or regulation which is in force, shall be kept posted by every telephone and telegraph company in a conspicuous place in every station or office of such company. *Same, sec. 36.*

H. FILING OF LEASES, CONTRACTS AND ARRANGEMENTS.

UNITED STATES Every common carrier shall file with commission copies of all contracts, agreements or arrangements
1712 with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. *Act to Regulate Commerce, sec. 6.*

ALABAMA Every railroad or common carrier shall file with commission within the time to be fixed by commission copies of all contracts which relate to the transportation of persons or

1712 property, or any service in connection therewith made or entered into by it with any other railroad, car company or equipment company, express or transportation company. *Code 1907, sec. 5529.*

Every common carrier shall file with commission, within 30 days after any such contract or agreement shall be made, sworn copies of every contract, agreement or arrangement with any other common carrier or railroad corporation and of every special contract or agreement made with any shipper, or with any **1714** logging or lumber road, relating in any way to the transportation of passengers, freight or property, and shall within 60 days after the passage of this act, file with commission sworn copies of all such contracts, agreements or arrangements of such character as had been executed and were in force at the time of the passage of this act. *Acts 1907, sp. sess., no. 17, sec. 8.*

See also par. 2999.

ARKANSAS

See par. 3004.

ILLINOIS

Each and every express company and carrier by express shall file with commission certified copies of all **1715** tracts or agreements now existing or hereafter entered into by or between him or it and any other express company or carrier by express or any railroad company or carrier by water operating within the state. *Revisal 1909, ch. 114, sec. 371.*

IOWA

A provision identical with par. 1712. *Code 1716 1897, sec. 2128.*

KENTUCKY

Commission shall not be required to give publicity to any contracts, leases, or engagements obtained by them **1717** in their official capacity, if the interest of any company would thereby be injuriously affected, unless in the judgment of commission the public interest requires it. *Carroll's Stats. 1909, sec. 831.*

MARYLAND

Every common carrier shall file with commission sworn copies of every contract, agreement or arrangement **1718** with any other common carrier or common carriers relating in any way to the transportation of passengers, property or freight. *Laws 1910, ch. 180, sec. 15.*

MASSACHUSETTS

Every railroad corporation and street railway company shall, upon request, furnish to commission copies of all leases, contracts and agreements for transportation with express companies or otherwise to which such corporation or

1719 company is a party, and also with the rates for transporting freight and passengers upon its railroad or railway and other railroads or railways with which its business is connected. *Acts 1906, ch. 463, pt. i, sec. 13.*

See also par. 3411.

MICHIGAN Every common carrier whenever required by commission shall within a time to be fixed by commission, deliver to commission for its use, copies of all contracts which
1720 relate to the transportation of persons or property or any service in connection therewith made or entered into by it with any other common carrier or any shipper or shippers, producers or consumers or other person or persons doing business with it. *Pub. Acts 1909, no. 300, sec. 29(a).*

MINNESOTA Every company shall file with commission
1721 copies of all its traffic agreements or arrangements with other carriers. *Rev. Laws 1905, sec. 2014.*

MISSISSIPPI Railroads, express, telegraph, telephone and sleeping car companies shall furnish commission with copies of all
1722 leases, contracts and agreements for transportation with each other. *Code 1906, sec. 4848.*

See also par. 3013.

MISSOURI *See par. 1477.*

NEVADA Every railroad, whenever required by commission, shall, within a time to be fixed by commission, deliver to commission for its use copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith made or entered into by it with any other railroad
1723 company, terminal company, depot company, equipment company, car company, express or other transportation company, bridge company, or any shipper or shippers, producers or consumers, or other persons doing business with it. *Stats. 1907, ch. 44, sec. 19, as amended by Stats. 1909, ch. 121, sec. 8(b).*

NEW YORK A provision substantially identical with par.
1724 1718. *Laws 1910, ch. 480, sec. 30(2).*

Every telegraph and telephone corporation shall file with commission as and when required by it a copy of any contract, agreement or arrangement in writing with any other telegraph or
1725 telephone corporation or with any other corporation, association or person relating in any way to the construction, maintenance or use of a telegraph or telephone line or service by or rates and

charges over or upon any such telegraph or telephone line. *Same, sec. 92(1).*

NORTH DAKOTA A provision for railroads, railroad corporations
1726 or common carriers identical with par. 1712. *Rev. Codes 1905, sec. 4342.*

OHIO When required by commission and within a time fixed by it, each railroad shall deliver to commission for its use copies of all contracts which relate to the transportation of persons or property or any service in connection therewith, made
1727 or entered into by such railroad with any other railroad, terminal, depot, car or equipment company, express or other transportation company, or any shipper or shippers, producers or consumers or other person or persons doing business with it. *Code 1910, sec. 561.*

On demand of commission, each railroad shall furnish it copies of all leases, contracts and agreements with express,
1728 sleeping car, freight or rolling stock companies, or other companies doing business upon or in connection with such road. *Same, sec. 603.*

Every public utility shall file with commission when and as required by it, a copy of any contract, agreement or arrangement,
1729 in writing, with any other public utility relating in any way to the construction, maintenance or use of its plant or property, or any service, rate or charge. *Laws 1911, no. 325, sec. 11.*

OREGON Every railroad, whenever required by commission, shall, within a time to be fixed by commission, deliver to commission for its use copies of all contracts which relate to the
1730 transportation of persons or property, or any service in connection therewith, made or entered into by it with any other railroad, car company, equipment company, express or other transportation company, or any shipper or shippers, or other person or persons doing business with it. *Gen. Laws 1907, ch. 53, sec. 44.*

PENNSYLVANIA Every common carrier shall, on request, furnish to commission copies of all contracts and agreements, leases,
1731 or other engagements entered into by it with any person or corporation. *Laws 1907, no. 250, sec. 19.*

Commission shall not give publicity to such information, contracts, agreements, leases, or other engagements, if, in their
1732 judgment, the public interests do not require it, or the welfare and

prosperity of the common carriers of the state might be thereby affected. *Same.*

RHODE ISLAND *See pars. 3777, 3778.*

SOUTH CAROLINA *See par. 3019.*

SOUTH DAKOTA Identical with par. 1712. *Sess. Laws 1911, 1733 ch. 207, sec. 10.*

See also pars. 1611, 1652, 3129.

VIRGINIA Every person or corporation now operating, or that may hereafter operate a railroad in this state under a contract of lease, shall have the same filed in the office of commission, within 30 days after the contract or lease is executed; or, if heretofore made, within 30 days after this law goes into effect. *Pol-
lard's Code 1904, sec. 1294d(56).*

WASHINGTON Every common carrier shall file with commis-
sion copies of every contract, agreement or arrangement with any
1734 other common carrier or common carriers relating in any way to
the transportation of persons or property. *Laws 1911, ch. 117,
sec. 16.*

1736 Also a provision substantially identical with par. 1725.
Same, sec. 39.

WISCONSIN Identical with par. 1730. *Laws 1905, ch. 362,
1737 sec. 1797-19, as amended by Laws 1907, ch. 582.*

See also par. 3788.

CHAPTER VI

Discrimination in Rates and Service

SCOPE NOTE

This chapter includes provisions regulating the making of rates and the furnishing of service in practice. These provisions define and prohibit unjust discrimination in rates and service and indicate the kinds of special treatment which constitute justifiable discrimination. The chapter includes also grants of power authorizing commissions to determine under what conditions such circumstances exist as make discrimination justifiable. Provisions involving a refusal to serve because of race, business or profession have been excluded. For general requirement that utilities serve all applicants, see ch. vii, on service. For provisions indicating the principles to be observed in determining reasonable rates, see ch. iii, on basis of rate making. For provisions authorizing commissions to regulate or prescribe rates, see ch. iv, on establishment and change of rates. For provisions requiring publicity in the establishment and change of rates, see ch. v, on publicity of rates. For provisions regulating service, see ch. vii, on service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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I. UNJUST DISCRIMINATION DEFINED AND PROHIBITED.

A. CHARGING A GREATER OR LESS COMPENSATION TO ONE PERSON THAN TO ANOTHER FOR A LIKE AND CONTEMPORANEOUS SERVICE.

UNITED STATES If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property than it charges, demands, collects or receives from any other person or
1738 persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful. *Act to Regulate Commerce, sec. 2.*

ALABAMA If any railroad or other common carrier or any agent or officer thereof shall directly or indirectly or by special rate, rebate, drawback or by means of false billing, false classification, false weighing, false report of weights or by any device whatsoever charge, demand, collect or receive from any person, firm, company or corporation a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith
1739 than that prescribed in the published tariffs or than it charges, demands, collects or receives from any other person, firm, company or corporation for a like service, such railroad or other common carrier so doing shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and shall forfeit to the state and pay into the state treasury not less than \$100 nor more than \$10,000 for each offense. *Acts 1909, sp. sess., no. 201, sec. 1 (8).*

ARKANSAS It shall be unlawful for any person or corporation engaged alone or associated with others in the transportation of passengers or property by railroad as freight or express

directly or indirectly to demand or receive from any person, firm, company or corporation any greater or less rate or amount of
1740 compensation than is demanded or received from any other person, firm, company or corporation for substantially similar and contemporaneous service, or to allow any person, firm, company or corporation, directly or indirectly, any rebate, drawback or other advantage in any form, or to make any preference in furnishing cars or motive power. *Kirby's Digest 1904, sec. 6804.*

COLORADO If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person, corporation or persons a greater or less compensation for any service rendered or to be rendered in the transportation of property than it
1741 charges, demands, collects or receives from any other person, corporation or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful. *Laws 1910, sp. sess., ch. 5, sec. 4.*

FLORIDA If any common carrier or any officer, agent or employe thereof shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any corporation, person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property than such common carrier charges, demands, collects or receives from any other corporation, person or persons for doing it or him or her or them a like and contemporaneous service in the transportation of a like kind
1742 of traffic under substantially similar circumstances and conditions, such common carrier, officer, agent or employe shall be guilty of unjust discrimination which is prohibited and declared to be unlawful. And it shall be unlawful for any corporation, person or persons to receive any sum of money, rebate or other thing of value directly or indirectly that is prohibited to be given, charged, demanded, collected or received by this act. *Laws 1907, ch. 5621, sec. 1.*

Any common carrier or corporation violating any provision or provisions of section one of this act shall, upon conviction thereof by a court of competent jurisdiction, be fined not less than \$1,000, nor more than \$25,000, and any officer, agent or

1743 employe of such corporation, or any other person, violating the provisions of this act, shall, upon conviction by a court of competent jurisdiction, be deemed guilty of a felony and confined in the state prison for a term of not exceeding five years. *Same, sec. 2.*

INDIANA

If any railroad directly or indirectly or by any special rate, rebate, drawback or other device shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives 1744 from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination which is prohibited. *Act 1907, ch. 241, sec. 13.*

Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination and shall for such 1745 offense pay to the state a penalty of not less than \$500 nor more than \$5,000, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction. *Same, sec 13(d).*

IOWA

If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property than it 1746 charges, demands, collects or receives from any other person or persons for doing for him a like kind of traffic, such common carrier shall be guilty of unjust discrimination which is prohibited and declared to be unlawful; but this section shall not be construed as prohibiting a less rate per 100 pounds in a carload lot than is charged, collected or received for the same kind of freight in less than a carload lot. *Code 1897, sec. 2124.*

KANSAS

No railroad company shall charge, demand or receive from any person, company or corporation for the transportation of any property or for any other service a greater or less sum than it shall at the same time charge, demand or receive from any other person, company or corporation for a like service from the same place or upon like conditions and under similar 1747 circumstances; and all concession of rates, drawbacks and contracts for special rates shall be open to and allowed all persons, companies and corporations alike; nor shall it charge more for

transporting freight from any point on its line than a fair and just proportion of the price it charges for the same kind of freight transported from any other point. *Gen. Stats. 1909, sec. 7214.*

See also pars. 918, 1815.

KENTUCKY

All railway, transfer, belt lines or railway bridge companies shall receive, unload, transport, haul, deliver and handle freight of the same class for all persons, associations
1745 or corporations from and to the same points and upon the same conditions in the same manner for the same charges and for the same method of payment. *Const., sec. 215.*

Any person, association or corporation wilfully or knowingly violating any of the provisions of sections 213, 214, 215 or 216 shall, upon conviction by a court of competent jurisdiction, for the first offense be fined \$2,000; for the second offense \$5,000; and for the third offense shall thereupon *ipso facto* forfeit its
1749 franchise, privileges or charter rights; and if such delinquent be a foreign corporation it shall *ipso facto* forfeit its rights to do business in this state; and the attorney general of the commonwealth shall forthwith upon notice of the violation of any of said provisions, institute proceedings to enforce the provisions of the aforesaid sections. *Same, sec. 217.*

If any corporation engaged in operating a railroad shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person a greater or less compensation for any service rendered in the
1750 transportation of passengers or property than it charges, demands, collects or receives from any other person for doing for him a like and contemporaneous service in the transportation of a like kind of traffic, it shall be deemed guilty of unjust discrimination. *Carroll's Stats. 1909, sec. 817.*

LOUISIANA

If any railroad, express, telephone, telegraph, steamboat or other water craft, or sleeping car company directly or indirectly or by any special rate, rebate or other device shall intentionally charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered by it than it charges, demands or receives from any other person, firm or corporation for doing a like and
1751 contemporaneous service, or shall violate any of the rates, charges, orders, rules or decisions of commission, such railroad, steamboat or other water craft, express, telegraph, telephone or sleeping car company shall forfeit and pay to the state not less

than \$100 nor more than \$5,000, to be recovered before any court of competent jurisdiction at the suit of the state at the domicile of commission. *Const., art. 286.*

MARYLAND

No common carrier shall directly or indirectly by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered in the transportation of passengers, freight or property than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions. *Laws 1910, ch. 180, sec. 16.*

Also a provision for gas or electrical corporations substantially identical with par. 1752. *Same, sec. 31½.*

MASSACHUSETTS

A telegraph company shall receive, compute and transmit dispatches which may be received at its offices from another telegraph company or by mail at the same rates of charge as for dispatches which may be received for transmission from individuals on the same day and at the same place. A telegraph company which wilfully neglects or refuses to comply with the provisions of this (or the preceding) section shall forfeit not more than \$100 to the company or person who sends or desires to send the dispatch. *Rev. Laws 1902, ch. 122, sec. 10.*

Every railroad corporation shall sell to an express messenger or to a person who conducts a local express business in its trains or cars a season ticket for his personal transportation at a price not exceeding that at which similar tickets are sold to passengers upon receiving from him a release of all right, to whomsoever accruing, to damages or compensation for death or for any personal injury received by him while riding on such ticket. The supreme judicial court or the superior court shall have jurisdiction to enforce the provisions of this section by injunction, mandamus or other suitable process. *Acts 1906, ch. 463, pt. ii. sec. 189.*

MICHIGAN

If any common carrier or any agent or officer thereof shall directly or indirectly by any special rate, rebate, drawback or by any means of false billing, false classification, false weighing or by any other device whatsoever charge, demand, collect or receive from any person, firm or corporation a

greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith than that prescribed in the public tariffs then in force, or established as provided herein, or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, or shall knowingly and wilfully assist or wilfully suffer and permit such greater or less compensation to be charged, demanded, collected or received, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful. *Pub. Acts 1909, no. 300, sec. 16.*

If any telephone company shall directly or indirectly by special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons, firm or corporation a greater or less compensation for any service rendered, furnished or performed than it charges, demands, collects or receives from
1787 any other person or persons, firm or corporation for rendering, furnishing or performing for him or them a like and contemporaneous service, such telephone company shall be guilty of unjust discrimination which is prohibited and declared to be unlawful. *Pub. Acts 1911, no. 138, sec. 4.*
See also par. 1820.

MINNESOTA It shall be unlawful for any common carrier by any special rate, rebate, drawback or other device to directly or indirectly charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service
1782 rendered in the transportation of any property within the state than its regular established schedule of rates and charges for like and contemporaneous service for any other person or for the public generally; and such common carrier shall be deemed guilty of unjust discrimination and shall be punished by a fine not exceeding \$5,000. *Acts 1905, ch. 177, sec. 1.*

MISSOURI If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons, firm or corporation a greater or less compensation for any service rendered in the transportation of any kind of property upon such railroad within the state than it charges, demands, collects
1780 or receives from any other person or persons, firm or corporation

for doing for him or them a like service in the transportation of a like kind of property under substantially like circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful. *Rev. Stats. 1909, sec. 3180.*

NEBRASKA

No railroad company shall grant or allow to any person, company or association, upon the transportation of freight either directly or indirectly, any secret rate, rebate, drawback, unreasonable allowance for use of cars or any undue advantage whatever, nor directly or indirectly charge to or receive
1700 from any person or persons or association or corporation any greater or less sum, compensation or reward than is charged to or received from any other person or persons, association or corporation for a like and contemporaneous service in the receiving, transporting, storing, delivering or handling of freights. *Cobbey's Annot. Stats. 1909, sec. 10560.*

If any railway company or common carrier directly or indirectly through or by its agents, officers or employees by any special rate, rebate, drawback or other device shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered
1701 by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, the same shall constitute an unjust discrimination which is forbidden and declared to be unlawful. *Same, sec. 10662.*

Any railway company or common carrier violating any of the provisions of this section shall be guilty of a misdemeanor,
1702 and upon conviction thereof shall be fined not less than \$500, nor more than \$5,000 for each offense. *Same, sec. 10662(d).*

Any officer, agent or employee for or on behalf of any railway company or common carrier violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not less than \$100 nor more than
1703 \$5,000 for each offense, or be committed to the county jail in the county wherein conviction was had for not less than ten days nor more than six months, or both, in the discretion of the court. *Same, sec. 10662(e).*

It shall be unlawful for any telegraph company, association or organization engaged in the business of forwarding dispatches
1704 by telegraph to demand, collect or receive from any publisher or proprietor of a newspaper any greater sum for a given service than

it demands, charges or collects from the publisher or proprietor of any other newspaper for a like service, and the violation of the provisions of sections seven and eight of this act by any telegraph company or association shall constitute a misdemeanor, and upon conviction said telegraph company or association shall be fined for each and every offense in any sum not less than \$100 nor more than \$1000 with costs of prosecution, and in addition thereto such telegraph company or association shall be liable for all damages sustained by the person or parties in consequence of such discrimination. *Same, sec. 11957.*

NEVADA

If any railroad or any agent or officer thereof shall directly or indirectly by any special rate, rebate, drawback or by means of false billing, false classification, false weighing or by any other device whatsoever charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith than that prescribed in the published tariffs then in force or established as provided by law, or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroads shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof shall forfeit and pay into the state treasury not less than \$100 nor more than \$5,000 for such offense; and any agent or officer so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$50 nor more than \$1,000 for each offense. *Stats. 1907, ch. 44, sec. 22.*

NEW YORK

Provisions for common carriers and gas or electrical corporations identical with pars. 1752, 1753. *Laws 1910, ch. 480, secs. 31, 65(2).*

Also a provision for telegraph or telephone corporations substantially identical with provisions for common carriers and gas or electrical corporations. *Same, sec. 91(2).*

NORTH CAROLINA

If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property than it charges, de-

1708 mands or collects or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such person or corporation shall be upon conviction thereof fined not less than \$1,000 nor more than \$5,000 for each and every offense. *Pell's Revisal 1908, sec. 3749.*

See also par. 1849.

NORTH DAKOTA Every storage company or warehouseman shall receive, forward and store all property offered for such purposes by any person, persons or corporation impartially and at as low a rate of charge and in a manner and on terms and in quantities as favorable to the party offering such property as it or he at the same place receives, forwards and stores in the ordinary
1709 course of business, property of like description and in similar quantities offered by any other person, persons or corporation. No such storage company or warehouseman shall discriminate against any particular person, persons or corporation or subject them or him to any undue and unreasonable prejudice or disadvantage. Any court having jurisdiction shall have power to enforce the provisions of this article by injunction, or other suitable process. *Rev. Codes 1905, sec. 2267.*

Every storage company or warehouseman who neglects or refuses to comply with the provisions of section 2267 shall forfeit
1770 for every such offense not less than \$50 nor more than \$500 to be recovered in an action by the party offering the property for storage. *Same, sec. 2268.*

It is unlawful for any ticket selling agent authorized and licensed by law or for any common carrier to charge, demand, collect, receive from or to sell, barter, transfer or assign to any person or persons, firm or company, corporation or association any tickets of any class whatever entitling the purchaser or holder thereof to transportation by the common carrier issuing
1771 such ticket or tickets for a greater or less sum or price than is charged, demanded, collected or received by any such ticket selling agent or common carrier for a similar ticket or tickets of the same class. Any person, ticket selling agent or common carrier who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding \$1,000 for each offense. *Same, sec. 4316.*

Also a provision for railroads, railroad corporations or com-
1772 mon carriers substantially identical with par. 1746. *Same, sec. 4334.*

OHIO

If a railroad or an agent or officer thereof, by special rate, rebate, drawback or by means of false billing, false classification, false weighing or other device shall charge, demand, collect or receive either directly or indirectly from any person, firm or corporation a greater compensation for services rendered or to be rendered by it for the transportation of persons or property or any service in connection therewith than that prescribed in the published tariffs then in force or established as provided by law, or a greater or less compensation than it charges demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, it shall be deemed guilty of unjust discrimination which is prohibited and declared unlawful, and upon conviction thereof shall forfeit and pay into the state treasury not less than \$100 nor more than \$5,000 for each offense. *Code 1910, sec. 564.*

Whoever being an agent or officer of a railroad violates any provision of the next preceding section shall be fined not less than \$50 nor more than \$1,000 for each offense. *Same, sec. 565.*

No public utility shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any services rendered or to be rendered than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service under the same or substantially the same circumstances and conditions. *Laws 1911, no. 325, sec. 16.*

OREGON

If any railroad or any agent or officer thereof shall directly or indirectly by any special rate, rebate, drawback or by means of any false billing, false classification, false weighing or by any other device whatsoever charge, demand, collect or receive from any persons, firm or corporation a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith than that prescribed in the published tariffs then in force or established as provided by law or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof

shall forfeit and pay into the state treasury not less than \$100 nor more than \$10,000 for each offense, and any agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 for each offense; provided that commission may, for cause shown, and after investigation, in special cases permit the collection of a greater sum for the lesser than for the longer distance over the same line. *Gen. Laws 1907, ch. 53, sec. 48.*

1777 If any public utility or any agent or officer thereof shall directly or indirectly by any device whatsoever or otherwise charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it in or affecting or relating to the transportation of persons or property by street railroad or to the production, transmission or delivery or furnishing of heat, light, water or power or the conveyance of telegraph or telephone messages or for any service in connection therewith than that prescribed in the published schedules or tariffs then in force or established as provided by law, or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service under substantially similar circumstances, such public utility shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof shall forfeit and pay into the state treasury not less than \$100 nor more than \$1,000 for each offense; and such agent or officer so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$100 for each offense. *Gen. Laws 1911, ch. 279, sec. 63.*

PENNSYLVANIA No railroad company or other common carrier engaged in the transportation of property shall charge, demand or receive from any person, company or corporation for the transportation of property or for any other service a greater sum than it shall charge or receive from any other person, company or corporation for a like service from the same place upon like conditions and under similar circumstances; and all concessions in rates and drawbacks shall be allowed to all persons, companies or corporations alike for such transportation and service upon 1778 like conditions under similar circumstances and during the same period of time. Nor shall any such railroad company or common carrier make any undue or unreasonable discrimination between

individuals or between individuals and transportation companies or in the furnishing of facilities for transportation. Any violation of this provision shall make the offending company or common carrier liable to the party injured for damages treble the amount of injury suffered. *Purdon's Digest, "Railroads," sec. 230.*

RHODE ISLAND If any public utility or any agent or officer of a public utility shall directly or indirectly by any device whatsoever or otherwise charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it in or affecting or relating to the transportation of persons or property between points within the state, or the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telegraph or telephone messages or for any service in connection therewith than that prescribed in the published schedules or
1770 tariffs then in force or established as provided by law or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service under substantially similar circumstances and conditions, such public utility shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof shall be fined not less than \$200 nor more than \$500 for each offense; and such agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$50 nor more than \$500 for each offense. *Acts 1912, ch. 795, sec. 39.*

SOUTH DAKOTA No railroad corporation shall charge, demand or receive from any person, company or corporation for the transportation of coal or other fuel a greater sum than it shall at the same time charge, demand or receive from any other person, company or corporation for a like service from the same place;
1780 and all concessions of rates, rebates, drawbacks and contracts for special rates shall be open to and allowed to all persons, companies and corporations, and they shall charge no more for transporting from any point on its line than a fair and just proportion of the prices it charges for the same kind of freight transported from any other point within the state. *Rev. Pol. Code 1903, sec. 475.*

If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device, charge, demand,

collect or receive from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers, property, express, freight or messages by telephone than it charges, demands, collects or receives
1781 from any other person or persons for doing him or them a like and contemporaneous service in the transportation of a like kind of traffic, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful; this section, however, is not to be construed as prohibiting a less rate per 100 pounds in a carload lot than is charged, collected or received for the same kind of freight in less than a carload lot.
Sess. Laws 1911, ch. 207, sec. 6.

TENNESSEE

If any common carrier shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any person or persons, firm or corporation a greater or less compensation for any services rendered in the transportation of any kind of property upon such railroad within the state than it charges, demands, collects
1782 or receives from any other person or persons, firms or corporations for doing for him or them a like service in the transportation of a like kind of property under substantially like circumstances and conditions, and if such common carriers make any preference between the parties aforesaid in furnishing cars or motive power for the purpose aforesaid, such common carrier shall be deemed guilty of unjust discrimination which is prohibited and declared unlawful. *Acts 1897, ch. 10, sec. 15.*

TEXAS

If any railroad directly or indirectly or by any special rate, rebate, drawback or other device shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be
1783 rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad shall be deemed guilty of unjust discrimination which is prohibited. *Sayles' Civ. Stats. 1897, art. 4574.*

Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each
1784 offense pay to the state a penalty of not less than \$500 nor more than \$5,000. *Same, art. 4574(4).*

If any officer, agent, clerk, servant or employe or any receiver or his servant, agent or employe of any railroad com-

pany shall directly or indirectly or by any special rate, rebate, drawback or other device for and on behalf of such railroad company, knowingly charge, demand, contract for, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by any such railroad company, than such railroad company, or its said officers, agents, clerks, servants or employees or receiver thereof, charges, demands, contracts for, collects or receives from any such person, firm or corporation for doing a like and contemporaneous service, such officer, clerk, servant or employee or receiver, his agents, servants or employees of such railroad company shall be deemed guilty of unjust discrimination and on conviction thereof shall be punished by confinement in the state penitentiary for not less than two nor more than five years. *Laws 1899, ch. 118, sec. 1.*

No company shall directly or indirectly, by any special rate, rebate, drawback or other device or exchange, demand, charge or collect or receive from any person, firm, association of persons or corporation, a greater or less or different compensation for any service rendered or to be rendered in the transportation of passengers, property or messages, than it charges, demands, collects or receives from any other person, firm, association of persons or corporation for doing for him, them or it a like service, if the transportation or transmission is a like kind of traffic or service under substantially similar circumstances and conditions, and any such company violating the provisions shall be deemed guilty of a misdemeanor, and for each offense on conviction shall pay into the state a penalty of \$5,000. *Laws 1907, ch. 42, sec. 4.*

VIRGINIA

If any transportation company shall directly or indirectly by any special rate, rebate, drawback or other device charge, demand, collect or receive from any corporation, person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property than it charges, demands, collects or receives from any other corporation, person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such company shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful. *Pollard's Code 1904, sec. 1294c(2).*

WASHINGTON

Provisions for common carriers, gas, electrical or water companies, telegraph or telephone companies, and

wharfingers or warehousemen substantially identical with par. 1752, 1753. *Laws 1911, ch. 117, secs. 20, 31, 41, 51.*

WISCONSIN

If any railroad or any agent or officer thereof shall directly or indirectly by any special rate, rebate, drawback or by means of false billing, false classification, false weighing or any other device whatsoever charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith than that prescribed in the published tariffs then in force or established as provided by law or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service, such railroad shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof shall forfeit and pay into the state treasury not less than \$100 nor more than \$10,000 for each offense; and any agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$100 for each offense. *Laws 1905, ch. 362, sec. 1797-22.*

If any public utility or any agent or officer thereof shall directly or indirectly by any device whatsoever or otherwise charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it in or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telephone messages or for any service in connection therewith than that prescribed in the published schedules or tariffs then in force or established as provided by law or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service, such public utility shall be deemed guilty of unjust discrimination which is prohibited and declared to be unlawful, and upon conviction thereof shall forfeit and pay into the state treasury not less than \$100 nor more than \$1,000 for each offense; and such agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$100 for each offense. *Laws 1907, ch. 499, sec. 1797m-89.*

B. CHARGING RATES OTHER THAN THOSE PRESCRIBED BY LAW OR SPECIFIED IN PUBLISHED SCHEDULES; REFUNDING, REMITTING OR REBATING ANY PORTION OF SUCH RATES; OR EXTENDING PRIVILEGES AND FACILITIES NOT UNIFORMLY OPEN TO ALL.

UNITED STATES No carrier shall charge, demand or collect or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith between the points named in the published tariffs than the rates, fares and charges which are specified in the tariff
1791 filed and in effect at the time, nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are specified in such tariffs. *Act to Regulate Commerce, sec. 6.*

It shall be unlawful for any common carrier that has issued or authorized to be issued any joint interchangeable mileage tickets to demand, collect or receive from any person or persons
1792 a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare or charge specified in the copies of the joint tariff of rates, fares or charges filed with commission in force at the time. *Same, sec. 22.*

ALABAMA No railroad company shall give or pay any rebate or a bonus in the nature thereof directly or indirectly, or do any act to mislead or deceive the public as to the real rates
1793 charged or received for freights or passage; and any such payments shall be illegal and void, and these prohibitions shall be enforced by suitable penalties. *Const., sec. 245.*

Any person or corporation operating a railroad who makes, and any person who knowingly accepts a lower transportation
1794 rate for person or freight than the published tariff must on conviction be fined not less than \$100 nor more than \$5,000. *Code 1907, sec. 7689.*

It shall be unlawful for any common carrier, its officers, agents or employes to publish, exact, charge or re-

ceive any higher or greater rate than that prescribed by statute
1796 or than that which has been made the maximum rate by statute
or than the rate prescribed by commission for the transportation
of property or passengers, or to refuse to receive property or pas-
sengers for transportation at such rates. *Acts 1909, sp. sess., no.*
31, sec. 1(1).

Every common carrier which shall violate any of the pro-
1798 visions of this act shall forfeit to the state of Alabama a sum
not exceeding \$100 for each offense, to be determined by the
court or judge trying the case. *Same, sec. 1(2).*

Each exaction, charge or receipt of a fare for the trans-
portation of a passenger or of the rate of compensation for the
transportation of property in excess of the statutory rate or fare
or the rate or fare established by commission, and each refusal to
1797 receive any property or passenger for transportation at such
rates shall be a separate and distinct offense; and the act of any
officer or other person acting within the scope of his official duties
or employment in exacting or charging such excess rate or fare
shall be in every case and be deemed to be the act of such com-
mon carrier. *Same, sec. 1(3).*

Every officer, agent or employe of such common carrier,
who shall violate, or who procures, aids or abets any violation
1798 of the provisions of this act, shall be guilty of a misdemeanor
and upon conviction shall be fined a sum not exceeding \$100
for each offense, to be determined by the court or judge trying
the case. *Same, sec. 1(4).*

A civil action to recover the forfeitures provided for in sec-
tion (2) of this act may be brought at any time within two
years from the date the offense was committed or forfeitures
were incurred in the name of the state of Alabama in any court
1799 of competent jurisdiction in any county in which the carrier is
engaged in business. In such action any number of forfeitures
incurred up to the time of commencing the same and not pre-
viously recovered, or separate suits may be brought for each
penalty or forfeiture, and the commencement of an action to
recover a forfeiture shall not be, or be deemed to be, a waiver of
the right to recover any other forfeitures. *Same, sec. 1(5).*

It shall be unlawful for any railroad or other common carrier
to charge, demand, collect or receive a greater or less compensa-
tion for the transportation of passengers or property or for any
service in connection therewith, than is specified in such printed
1800 schedules including schedules of joint rates as may at the time

be in force, except as provided by law or commission, and the rates, fares and charges named therein shall be the lawful rates, fares and charges when approved by commission. *Acts 1909, sp. sess., no. 201, sec. 1(5).*

See also par. 1739.

ARIZONA

No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property or for any service in connection therewith than the rates, fares and charges applicable to such transportation as specified in its schedule filed and in effect at the time; nor shall any such carrier refund or remit in
1901 any manner or by any device any portion of the rates, fares or charges so specified except upon order of commission as herein-after provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property, except such as are regularly and uniformly extended to all corporations and persons. *Sess. Laws 1912, ch. 90, sec. 17(a)(2).*

Except as in this section authorized and provided, no public service corporation shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished or for any service rendered or to be rendered than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public service corporation refund or remit directly or indirectly in
1902 any manner or by any device any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or persons any form of contract or agreement or any rule or regulation, or any facility or privilege, except such as are regularly and uniformly extended to all corporations and persons; provided that commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public service corporation. *Same, sec. 17(b).*

ARKANSAS

All agents of railroad and express companies are prohibited from charging, collecting or receiving pay for any goods, wares, packages, merchandise or any article whatever
1902 that may be sent or received by or through their respective offices in excess of the regular rates charged for the same. *Kirby's Digest 1904, sec. 6667.*

CALIFORNIA Provisions identical with pars. 1801, 1802, except that "public utility" is used instead of "public service corporation." *Stats. 1911, 1st. ex. sess., ch. 14, secs. 17a(2), 17(b).*
See also par. 4517.

CONNECTICUT *See par. 2315.*

FLORIDA If any railroad company or common carrier shall discriminate by way of rebate or otherwise directly or indirectly in favor of any consignor or consignee of freights within the state, by allowing him a reduction of the rate fixed by commission as reasonable and just, any other consignor or consignee of freights within the state shall have a right of action against the said railroad company or common carrier, and the amount of his damages shall be fixed by a jury, unless a jury shall be waived, and the measure of damages shall be such sum or sums of money as will fairly compensate the injury done to said last mentioned
1806 consignor or consignee. But in all such cases demand in writing on said railroad, railroad company or common carrier shall be made for the money damages sustained before suit is brought for recovery under this section, and all suits under this act shall be brought within 12 months after the commission of the alleged wrong or injury except in cases where commission has heretofore been or shall hereafter be by the refusal of such railroad or common carrier to observe the rates, rules, schedules or regulations by commission compelled to resort to suits to enforce such rates, rules, schedules or regulations, and in such cases suits for such loss, damage or penalty may be brought within 12 months after the termination of such suits in favor of commission. *Gen. Stats. 1906, sec. 2910, as amended by Laws 1909, ch. 5624.*
See also par. 1078.

GEORGIA A provision identical with par. 1793. *Const.,*
1806 *art. iv, sec. 2.*

No railroad company shall make or retain directly or indirectly any charge for storage or freight greater than that fixed by
1807 commission for each particular storage; nor shall they discriminate directly or indirectly by means of rebates or any other device in any such charges between persons. *Acts 1891, no. 700, sec. 3.*
See also par. 1079.

ILLINOIS It shall be unlawful for any express company or carrier by express to charge, demand, collect or receive a greater or less or different compensation for the transportation of

property, money, parcels, merchandise, packages and other commodities and things or for any service rendered in connection therewith between points named in its schedules or tariffs, than the rates and charges which are specified in such schedules or
1806 tariffs filed and in effect at the time or as may be promulgated, amended or changed by order of commission, nor shall any express company or carrier by express refund or remit in any manner or by any device any portion of the rate or charge so specified, nor extend to any shipper, person or persons, firms, copartnerships, joint stock companies or corporations any privilege or facility in receiving, storing, handling or forwarding of property or otherwise not granted to another and not specified in such schedules or tariffs. *Revisal 1909, ch. 114, sec. 370.*

INDIANA

It is declared to be unlawful for any carrier to charge, demand or collect directly or indirectly for the transportation of passengers or property or for any other service performed by it as a common carrier any other or different rate or rates, charge or charges than the rate named and fixed in the
1809 schedules and tariffs required to be and filed with commission or to charge, demand or collect directly or indirectly for any such service any other or different rate or rates, charge or charges than that adopted by commission or ordered observed by any court. *Acts 1911, ch. 225, sec. 1(b).*

Every carrier which shall knowingly and wilfully charge, collect, demand or receive from any person, company, firm or corporation, directly or indirectly, a greater or less rate, charge or compensation for the transportation of persons or property or for any service performed or to be performed by any such carrier
1810 than that fixed and specified in the schedule of rates filed with commission, or the schedule of rates fixed and adopted by commission, or the schedule of rates ordered observed by any court of this state, shall be guilty of a misdemeanor, and upon conviction thereof in any court of this state having jurisdiction shall be fined in a sum not less than \$500, nor more than \$5,000. *Acts 1907, ch. 241, sec. 12(c).*

If any agent, officer or employe of any carrier shall intentionally, directly or indirectly, by any special rate, rebate, drawback or by means of false billing, false classification, false weighing, or by any other device whatsoever, charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by any such company for the transportation of persons

1811 or property, or for any other service performed by such carrier, than that prescribed in the published tariffs then in force and on file with commission, or which have heretofore been established by such commission or ordered to be observed by any court, then and in such case any such agent, officer or employe shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100 nor more than \$2,000, to which may be added imprisonment in the county jail not exceeding one year, in the discretion of the court or jury trying the cause. *Same, sec. 14(a).*

IOWA

When any common carrier shall have established and published its rates, fares and charges, it shall not charge, demand, collect or receive from any person or persons

1812 a greater or less compensation for the transportation of passengers or property or for any service in connection therewith than is specified in such published schedule of rates, fares and charges as may at that time be in force. *Code 1897, sec. 2128.*

It shall be unlawful for any express company or common carrier to charge, demand, collect or receive a greater compensation for the transportation of property or for any service in connection therewith between the points named in such schedules

1813 than the rates and charges which are specified in the schedules made by commission and in effect at the time. Any such express company or common carrier, any officer, representative or agent of any express company or carrier who knowingly violates these provisions shall forfeit to the state the sum of \$500 for each offense to be recovered as by law provided. *Same, sec. 2165e.*

KANSAS

It shall be unlawful for any railroad company or other common carrier to grant or for any consignor or consignee to receive any rebate or drawback or enter into any arrangement whereby such consignor or consignee shall directly or indirectly receive a lower rate for transporting freight than the rate fixed by the orders of commission or the published schedules of such railroad company. It shall be unlawful for any railroad company or other common carrier to grant any special privileges

1814 to any person, firm or corporation either in the way of preference in furnishing cars, side track facilities, sites for elevators, mills or warehouses or any other form of preference or discrimination. It shall be unlawful for any railroad company or other common carrier or any agent or employe thereof or for any person, firm or corporation to enter into any secret agreement with any firm, person or corporation for the purpose of giving any firm, person or

corporation any special privileges, favors or discriminations in favor of such firm, person or corporation. *Gen. Stats. 1909, sec. 7181.*

If any railroad company shall make, charge or receive from any shipper a less rate for the transportation of freight than the rate authorized by commission, it shall make the same lesser rate to all persons for all like contemporaneous services in the transportation of like kinds of freight under substantially similar
1815 circumstances and conditions; and in case any such company shall make, charge or receive any such lesser rate from one person and a greater rate from another person, the latter may sue and recover the difference between the rate paid by him and such lesser rate, together with reasonable attorney's fees for recovering the same in any court of competent jurisdiction. *Same, sec. 7196.*

Any device, subterfuge or arrangement by which any passenger received a concession, advantage, reduction or rebate not accorded to all other passengers, exclusive of the excepted
1816 classes elsewhere enumerated, shall be deemed a violation of law, and the officer, agent or employe of the railroad company granting or offering to grant or give, and the person soliciting or accepting the same, shall be punished as provided by law for a direct violation of the provisions of law. *Same, sec. 7261.*

No common carrier or public utility shall knowingly or wilfully charge, demand, collect or receive a greater or less compensation for the same class of service performed by it within the
1817 state or for any service in connection therewith than is specified in the printed schedules or classifications including schedules of joint rates, or demand, collect or receive any rate, toll, fare or charge not specified in such schedules or classification. *Laws 1911, ch. 238, sec. 12.*

MARYLAND

No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of passengers, freight or property or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules
1818 filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. *Laws 1910, ch. 180, sec. 16.*

MICHIGAN

A provision substantially identical with par. 1819 1791. *Pub. Acts 1911, no. 139, sec. 10(f)*.

It shall be unlawful for any express company operating or doing business in the state, to charge or collect a greater amount for the transportation of merchandise or other property within the state than the rates and charges set forth and contained in 1820 the schedule of rates, tariffs and classifications on file at each station and office to or from which said rates, charges and classifications are intended to apply; a copy of which said schedule of rates, tariffs and classifications shall be filed with commission by issuing carrier or some duly authorized agent or representative of such carrier. *Same, sec. 25(a)*.

The maximum rate fixed by law shall not limit the right of any person, firm or corporation to supply electricity for a less rate if it charges all customers at the same rate for electricity simultaneously used under like conditions. No corporation or 1821 person engaged in the business of supplying electricity, shall be entitled to have, receive or recover a greater charge for electricity supplied to any customer than that fixed by commission after the same has been fixed as provided by law. *Pub. Acts 1909, no. 106, sec. 7*.

It shall be unlawful for any telephone company to make 1822 any other or different charge for service than that shown in its schedules. *Pub. Acts 1911, no. 138, sec. 19*.

See also pars. 1412, 1756.

MINNESOTA

No carrier shall charge, demand, collect or receive for any service a greater or less sum than that fixed in its 1823 published schedules. *Rev. Laws 1905, sec. 2015*.

See also par. 1758.

MISSISSIPPI

The track of every railroad which carries persons or property for hire is a public highway, over which all persons have equal rights of transportation for themselves and their property, and for passengers, freight and cars, on the payment of reasonable compensation to the railroad for such transportation; and if any railroad corporation or person managing a railroad shall demand and receive unreasonable compensation for the service rendered in the transportation of passengers or freight or more than allowed by the tariff of rates fixed by commission, or by such person or corporation with its approval, or more than 1824 the rates specified in the bill of lading issued by authority of the railroad; or if any railroad shall for its advantage or for the

advantage of a connecting line, or for that of any person, locality or corporation, make any discrimination in transportation against any person, locality or corporation unless authorized by commission, or if any railroad company shall charge more for a short haul than for a long one under substantially similar circumstances and conditions without the sanction of commission, such person or corporation in either case shall be guilty of extortion and may be punished therefor criminally besides being liable civilly. *Code 1906, sec. 4839.*

The parties injured may recover of the person or corporation guilty of extortion twice the amount of damages sustained by
1838 the overcharge or discrimination, as the case may be. *Same, sec. 4840.*

Any railroad which shall commit extortion in rates, or by discrimination, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine not less than \$100; but the railroad cannot be punished criminally if its tariff of charges shall
1838 have been approved by commission and if the charge complained of be not variant from that allowed thereby. *Same, sec. 4841.*

It is unlawful for any railroad to make or allow any rebate or reduction from the tariffs of charges fixed or approved by
1837 commission in favor of any person, place or corporation by a change in or deviation from the rates so fixed or approved, unless such change or deviation be first allowed by commission. *Same, sec. 4844.*

If any railroad shall make any rebate, reduction or allowance in freight or passenger rates from the rates approved or fixed by commission, without its consent first had, or shall give to any
1838 person a free pass or ticket or transport him free of charge contrary to law, or shall fail to make due report of free passes granted, such railroad shall in either case be guilty of a misdemeanor and on conviction shall be fined not less than \$100. *Same, sec. 4845.*

MISSOURI

When any common carrier shall have established and published its rates, fares and charges in compliance with the provisions of law, the same not being in excess of any statutory maximum rates now or that may be hereafter in force, it shall be unlawful for any such common carrier to charge, demand, collect or receive from any person or persons, a greater or
1838 less compensation for the transportation of property or for any service in connection therewith than is specified in such pub-

lished schedules of rates, fares and charges as may at the time be in force except as may be specifically permitted. *Rev. Stats. 1909, sec. 3187.*

Any railroad corporation which shall fix, demand, take or receive from any person or persons any greater toll or compensation for the transportation, receipt, handling or delivery of goods or merchandise in violation of the provisions of this article shall forfeit and pay for any such offense any sum not exceeding \$1,000, **1830** and costs of suit, including a reasonable attorney's fee, to be taxed by any court where the same is held by appeal or otherwise, to be recovered by civil action by the party aggrieved, in any court having jurisdiction thereof; and any officer, agent or employe of any such railroad corporation who shall knowingly or wilfully violate the provisions of this article shall be liable to the penalties prescribed in this section. *Same, sec. 3211.*

In no instance shall any individual, company or corporation, lessee or other person charge or receive any greater rate of compensation for carrying freight or passengers than by law provided, and any individual, company or corporation violating or in any way evading the provisions of this article shall forfeit all right to recover or receive any compensation whatever for the service rendered wherein such violation is attempted; and every agent of any such corporation, lessee or other individual operating any railroad within the state who shall refuse to receive for transportation over the road for which he is agent in the usual **1831** way any of the articles provided for on account of the compensation by law prescribed being too low, or receiving any such articles of freight, shall charge or attempt to charge for the transportation of the same any greater sum than fixed by law or shall in any manner violate or attempt to violate or evade the provisions of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding \$200 for each and every offense, and the injured party shall have a right of action against such agent or against the railroad company or other persons operating the railroad, or both, in which case he shall be entitled to recover three times the amount taken or received from him in excess of the rate prescribed by this article. *Same, sec. 3248.*

1832 Also a provision identical with par. 1813. *Same, sec. 3288b. See also par. 971.*

MONTANA

If any railroad directly or indirectly or by any special rate, rebate, drawback or other device shall charge, de-

mand or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered in the transportation of property than that fixed by commission
1833 for such service, such railroad shall be deemed guilty of extortion and shall forfeit and pay to the state not less than \$500, nor more than \$2,000 for each offense; provided that nothing herein shall be so construed as to prevent any railroad or railroad corporation from giving excursion rates to or from any point within or without the state. *Rev. Codes 1907, sec. 4385.*

If any railroad or its agents or officers shall collect, charge, demand or receive from any person, company, firm or corporation a greater rate, charge or compensation than that fixed and established by commission for the transportation of freight, passengers or cars or for the use of any car on the line of its railroad or any
1834 line operated by it, or for receiving, forwarding, handling or storing any such freight car or for any other service performed or to be performed by it, such railroad and its agents and officers shall be deemed guilty of extortion and shall forfeit and pay to the state a sum not less than \$500 nor more than \$2,000. *Same, sec. 4386.*

NEBRASKA

If any railway company or common carrier by or through its officers, agents or employes shall charge, collect, demand or receive from any person or persons, company, firm or corporation a greater rate, charge or compensation than that fixed and established by commission for the transportation of freight, passengers or cars operated by such railway company or
1835 common carrier, or for receiving, forwarding, handling or storing any such freight or cars or for any other service performed or to be performed by said railway company or carrier, said railway company or carrier shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not less than \$1,000, nor more than \$5,000 for each offense. *Cobbey's Annot. Stats. 1909, sec. 10661.*

If any officer, agent or employe for or on behalf of any railway company or carrier shall charge, collect, demand or receive from any person or persons, company, firm or corporation a greater rate, charge or compensation than that fixed and established by commission for the transportation of freight and pas-
1836 sengers or cars operated by said railway company or common carrier, said officer, agent or employe shall be guilty of a misdemeanor and shall upon conviction thereof be fined a sum not less than \$100, nor more than \$5,000 or be imprisoned in the

county jail of the county wherein conviction was had not less than ten days, nor more than six months or both within the discretion of the court. *Same, sec. 10661(a).*

Any officer, agent or employe of any railway company or common carrier who by means of false billing, false classification, false weighing or by any other device shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on said line of said railway company or common carrier or any part thereof or who by means of false billing, false classification, false weighing or by any device
1837 whatsoever shall charge any person, firm or corporation for the transportation of property other than the rates fixed and established upon the line of said railway company or common carrier, shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than \$100 nor more than \$5,000 or be imprisoned in the county jail in the county wherein conviction was had not less than ten days nor more than 30 days or both within the discretion of the court. *Same, sec. 10662(f).*

When commission has reason to believe that any railway company, or common carrier, or any officer, agent or employe thereof, has been guilty of any misdemeanor or misdemeanors, commission shall immediately cause actions to be commenced and prosecuted against such railway companies, common carriers, agents, officer or employes, as the case may be, which may be brought in the county of the state through or into which the line of the railway company or common carrier sued may extend,
1838 and in the case of a misdemeanor on the part of any officer, agent or employe as herein defined, shall be brought in the county where the misdemeanor was committed; said actions commenced shall be prosecuted in the name of the state and no such action shall be dismissed without trial unless commission and the attorney general consent thereto. Such actions shall have precedence to all other business except criminal cases, cases of similar nature, and such other actions as are herein provided for. *Same, sec. 10663.*

All of the penalties herein provided, unless otherwise provided for, shall be recovered and suits thereon shall be brought in the name of the state in the proper court having jurisdiction
1839 thereof in any county in this state to or through which said railway company or common carrier may be operating a road, by the attorney general, or under his direction. *Same, sec. 10663(a).*

1840 In all suits arising under this chapter the rules of evidence

shall be the same as in ordinary civil actions, except as otherwise provided herein. *Same, sec. 10663(b).*

See also pars. 1762, 1763.

NEVADA

It shall be unlawful for any railroad to charge, demand, collect or receive a greater or less compensation for the transportation of passengers or property or for any service in
1841 connection therewith than is specified in the printed schedules including schedules of joint rates as may at the time be in force, and the rates, fares and charges named therein shall be the lawful rates, fares and charges until the same are changed as provided by law. *Stats. 1907, ch. 44, sec. 4(c).*

It shall be unlawful for any public utility to charge, demand, collect or receive a greater or less compensation for any service performed by it within the state or for any service in connection therewith than is specified in the printed schedules including
1843 schedules of joint rates as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in such schedules. The rates, tolls and charges named therein shall be the lawful rates, tolls and charges until the same are changed as provided by law. *Stats. 1911, ch. 162, sec. 12.*

It shall likewise be unlawful for any public utility to grant any rebate, concession or special privilege to any consumer or user, which directly or indirectly shall have or may have the effect of
1843 changing the rates, tolls, charges or payments, and any violation of the provisions of this section shall subject the violator to the penalty prescribed in section ten of this act. This, however, shall not have the effect of suspending, rescinding, invalidating or in any way affecting existing contracts. *Same.*

See also par. 1765.

NEW YORK

A provision for common carriers identical with
1844 par. 1818. *Laws 1910, ch. 480, sec. 33(1).*

No gas or electrical corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time; nor shall any such corporation refund or remit
1845 in any manner or by any device any portion of the rates or charges so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are regularly and uniformly extended to all persons and corporations under like circumstances. *Same, sec. 66(12).*

No telegraph or telephone company shall charge, demand, collect or receive a different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time. Nor shall any telegraph or telephone corporation refund or remit
1846 directly or indirectly any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time and regularly and uniformly extended to all persons and corporations under like circumstances for the like or substantially similar service. *Same, sec. 92(2).*

NORTH CAROLINA No railroad, steamboat, express or other transportation company engaged in the carriage of freight and no telegraph company or telephone company shall demand, collect
1847 or receive for any service rendered or to be rendered in the transportation of property or transmission of messages more than the rates appearing in the printed tariff of such company in force at the time such service is rendered, or more than is allowed by law. *Pell's Revisal 1908, sec. 2642.*

Any railroad company violating any of the provisions of this act, or counseling, ordering or directing any employe, agent or servant to violate any provisions of this act by charging, demanding or receiving any rate greater than that fixed by this act,
1848 shall be guilty of a misdemeanor, and on conviction shall be fined not less than \$500 and not more than \$5,000; and any agent, servant or employe of any railroad company who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and on conviction shall be fined or imprisoned, or both, in the discretion of the court. *Same, sec. 3761a.*

Any railroad company doing business in the state or officer or agent thereof who shall give to any person or shipper any advantage over another person or shipper under like circumstances by way of any rebate or reduced rate not authorized by law or by commission, or which shall make charges for shipments of
1849 freight in violation of the provisions of law or shall wilfully discriminate in the matter of service in favor of one person or corporation against another under like circumstances, shall be guilty of a misdemeanor and such corporation shall upon conviction be fined not less than \$100, and such officer or agent shall be fined or imprisoned or both in the discretion of the court. *Acts 1907, ch. 217, sec. 2.*

NORTH DAKOTA A provision for railroads, railroad corporations
1880 or common carriers substantially identical with par. 1812. *Rev.*
Codes 1905, sec. 4341.

OHIO No public utility shall charge, demand, exact
receive or collect a different rate, rental, toll or charge for any
services rendered or to be rendered than that applicable to such
service as specified in its schedule filed with commission and in
1881 effect at the time. Nor shall any public utility refund or remit
directly or indirectly any rate, rental, toll or charge so specified
or any part thereof, nor extend to any person, firm or corporation
any rule, regulation, privilege or facility except such as are speci-
fied in such schedule and regularly and uniformly extended to all
persons, firms and corporations under like circumstances for the
like or substantially similar service. *Laws 1911, no. 325, sec. 20.*
See also par. 1773.

OKLAHOMA All agents of railroad and express companies
doing business in the state are prohibited from knowingly charg-
ing, collecting or receiving pay for any goods, wares, packages,
1888 merchandise or any article whatever that may be sent or received
by or through their respective offices in excess of the regular rates
charged for the same. *Sess. Laws 1908, ch. 13, art. iii, sec. 1.*

All agents or operators for any telegraph or telephone com-
pany doing business in the state are prohibited from knowingly
1888 charging, collecting or receiving pay for any message sent or
received by them in excess of the regular rate charged for the
same. *Same, sec. 2.*

Any person who shall violate the provisions of sections one
and two of this act shall be deemed guilty of a misdemeanor, and
1884 upon conviction thereof shall be fined in any sum not less than
\$25, nor more than \$200. *Same, sec. 4.*

OREGON Substantially identical with pars. 1841, 1842.
1888 *Gen. Laws 1907, ch. 53, sec. 16. Gen. Laws 1911, ch. 279, sec. 31.*
See also pars. 1776, 1777.

RHODE ISLAND *See par. 1779.*

SOUTH CAROLINA A provision substantially identical with par.
1886 1807. *Gen. Stats. 1902, secs. 1733, 2095.*

If any railroad company shall violate the provisions of this
chapter, either by exceeding the rates of storage prescribed, or by
discriminating, the person or persons so paying such over-
charge or subjected to such discrimination shall have the right

to sue for the same in any court of this state having jurisdiction
1887 of the claim, and shall have all the remedies and be entitled to
recover the same penalties and measure of damages as is pre-
scribed in the case of overcharge of freight rates, upon making
like demand as is prescribed in such case and after like failure to
pay the same. *Same, secs. 1734, 2096.*

If any railroad corporation shall make any unjust discrimina-
tion in its rates and charges of toll as compensation for trans-
portation of passengers or freights of any description or for the
use and transportation of any railroad car upon its said road or
upon any of the branches thereof, or upon any railroad con-
nected therewith which it has the right, license or permission
1888 to operate or control within the state, the same shall be deemed
guilty of having violated the provisions of this chapter, and upon
conviction thereof shall be fined in a sum not less than \$100 nor
more than \$1,000. It shall be unlawful for any person so engaged
as aforesaid or person engaged solely in the shipment or receiving
of property directly or indirectly to allow or receive any rebate,
drawback or other advantage in any form upon shipment made
or services rendered or received by them as aforesaid. *Same,*
sec. 2084.

See par. 853.

SOUTH DAKOTA When any common carrier shall have estab-
lished and published its rates, fares and charges in compliance
with the provisions of law, it shall be unlawful for such common
carrier to charge, demand, collect or receive from any person or
persons a greater or less compensation for the transportation of
1889 passengers' property, express and messages by telephone, or for
any services in connection therewith than is specified in such
published schedule of rates, fares and charges as may at the time
be in force. *Sess. Laws 1911, ch. 207, sec. 10.*

An express company which shall charge a different rate for
transportation of any express than the charges established in
1890 this act shall upon conviction pay a fine of not less than \$10, nor
more than \$500. *Sess. Laws 1909, ch. 159, sec. 7.*

TENNESSEE It shall be unlawful for any person or corpora-
tion to make any rebate or reduction from the published tariffs
in favor of any person, locality or corporation which shall not be
1891 made in favor of all other persons, localities or corporations by
change in such published rates except as may be allowed by com-
mission. *Acts 1897, ch. 10, sec. 22.*

Any person or corporation who shall make any reduction or rebate prohibited by this act without approval of commission shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100, nor more than \$500. *Same, sec. 23.*

TEXAS

If any railroad company or its agent or officer shall charge, collect, demand or receive from any person, company, firm or corporation a greater rate, charge or compensation than that fixed and established by commission for the transportation of freight, passengers or cars or for the use of any car on the line of its railroad or any line operated by it or for receiving, forwarding, handling or storing any such freight or cars or for any other service performed or to be performed by it, such railroad company and its said agent and officer shall be deemed guilty of extortion and shall forfeit and pay to the state a sum not less than \$100 nor more than \$5,000. *Sayles' Civ. Stats. 1897, art. 4573.*

Every express company which shall demand or receive a greater compensation than that which may be prescribed and fixed by commission for the transportation of any class or kind of property, money, papers, packages or things shall be deemed guilty of extortion and shall forfeit and pay to the state a sum not to exceed \$500 for each offense; provided, that if it shall appear that such violation was not wilful, said company shall have ten days to refund such overcharges or damages in which case the penalty shall not be incurred. Commission shall sue for a recovery of same in the same manner as may be prescribed by law for like suits against railroad companies. *Same, art. 4583.*

VIRGINIA

When commission shall have either authorized or prescribed and published any rates, fares and charges, it shall be unlawful for any company to charge, demand, collect or receive from any person or persons a greater or less compensation for the transportation of passengers or property or for any service in connection therewith than is specified in such published schedule of rates, fares and charges so authorized or prescribed and published by commission unless or until changed by commission. *Pollard's Code 1904, sec. 1294c(7).*

WASHINGTON

A provision for common carriers substantially identical with par. 1818; also a provision for gas, electrical or water companies substantially identical with par. 1845; also a provision for telephone or telegraph companies substantially identical with par. 1846. *Laws 1911, ch. 117, secs. 18, 29, 40.*

No wharfinger or warehouseman shall charge, demand, collect or receive a greater, less or different compensation for any service rendered or to be rendered than the rates charged applicable to such service specified in its schedule filed and in effect **1867** at the time. Nor shall any such wharfinger or warehouseman directly or indirectly refund or remit in any manner or by any device any portion of the rate or charge so specified. No wharfinger or warehouseman shall extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except as are regularly and uniformly extended to all persons and corporations under like circumstances. *Same, sec. 49.*

WISCONSIN Substantially identical with pars. 1841, 1842. *Laws 1905, ch. 362, sec. 1797-4(c). Laws 1907, ch. 499, sec. 1868 1797m-33.*
See also pars. 1789, 1790.

C. CHARGING A LESS COMPENSATION IN CONSIDERATION OF THE FURNISHING BY UTILITIES OF ANY PART OF THE FACILITIES INCIDENT TO THE SERVICE.

UNITED STATES If the owner of property transported directly or indirectly renders any service connected with such transportation or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and commission may, after hearing on a complaint or on **1869** its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders provided for under this section. *Act to Regulate Commerce, sec. 15.*

ALABAMA No railroad, common carrier, agent or officer thereof shall demand, charge, collect or receive from any person, firm or corporation a less compensation for transportation of **1870** property or for any service rendered or to be rendered by said railroad in consideration of said person, firm or corporation furnishing any part of the facilities incident thereto. *Code 1907, sec. 5532.*

MICHIGAN

It shall be unlawful for any common carrier to demand, charge, collect or receive from any person, firm or corporation a less compensation for the transportation of property or for any service rendered or to be rendered by said common carrier in consideration of said person, firm or corporation furnishing any part of the facilities incident thereto; provided that nothing shall be construed as prohibiting any common carrier from procuring any facilities or service incident to the transportation, and paying a reasonable compensation therefor. *Pub. Acts 1909, no. 300, sec. 16.*

NEVADA, OHIO

A provision for railroads identical with par. 1871. *Nev.—Stats. 1907, ch. 44, sec. 22(a); Ohio—Code 1910, sec. 566.*

OREGON

A provision for railroads substantially identical with par. 1871. *Gen. Laws 1907, ch. 53, sec. 48.*

It shall be unlawful for any public utility to demand, charge, collect or receive from any person, firm or corporation less compensation for any service rendered or to be rendered by said public utility in consideration of the furnishing by said person, firm or corporation of any part of the facilities incident thereto; provided nothing shall be construed as prohibiting any public utility from renting any facilities incident to the transportation of persons or property by street railroad, or to the production, transmission, delivery or furnishing of heat, light, water or power or the conveyance of telephone messages, and paying a reasonable rental therefor, or as requiring any public utility to furnish any part of such appliances which are situated in and upon the premises of any consumer or user except telephone station equipment upon the subscriber's premises, and unless otherwise ordered by commission meters and appliances for measurements of any product or service. *Gen. Laws 1911, ch. 279, sec. 64.*

PENNSYLVANIA

If the owner of property transported by common carriers directly or indirectly renders any service connected with such transportation or furnishes any instrumentality used therein, the charge and allowance therefor shall not be more than is just and reasonable and commission may after hearing on a complaint determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the instrumentality so furnished. *Laws 1907, no. 250, sec. 9.*

WISCONSIN

Identical with pars. 1871, 1874, except that in par. 1874 "the transportation of persons or property by street

railroad" is omitted. *Laws 1905, ch. 362, sec. 1797-22(a). Laws 1907, ch. 499, sec. 1797m-90, as amended by Laws 1909, ch. 213.*

D. CHARGING A LESS COMPENSATION IN CONSIDERATION OF THE SIZE OF THE SHIPMENT OR THE EXTENT OF THE SERVICE.

IOWA

No common carrier shall charge, collect, demand or receive more for transporting a car of freight than it at the same time charges, collects, demands or receives per car for several cars of a like class of freight over the same railway, for the same distance, in the same direction; nor charge, collect, demand, or receive more for transporting a ton of freight than it charges, collects, demands, or receives per ton for several tons of freight under a carload of a like class over the same railway, **1877** for the same distance, in the same direction; nor charge, collect, demand, or receive more for transporting 100 pounds of freight than it charges, collects, demands, or receives per 100 for several hundred pounds of freight, under a ton, of a like class, over the same railway, for the same distance, in the same direction; and all such discriminating rates, charges, collections, or receipts, whether made directly or by means of any rebate, drawback, or other shift or evasion, shall be received as prima facie evidence of the unjust discrimination prohibited by this chapter. *Code 1897, sec. 2146.*

For the protection and development of any new industry within the state, such railway company may grant concessions or **1878** special rates for any agreed number of carloads, which rates shall first be approved by commission and a copy thereof filed in its office. *Same.*

See also par. 1746.

KENTUCKY

When one or more carloads of freight shall be transported at the same time for different persons, and for each shipper a carload or more, such shipment shall be considered and taken as the same quantity of freight within the meaning of this law, and when less than a carload of freight, and over 5,000 **1879** pounds, are transported at the same time for different shippers, and for each shipper 5,000 pounds, such shipment shall be considered and taken as the same quantity of freight, and when over 500 pounds and less than 5,000 pounds are transported at the

same time for different shippers, and for each shipper said quantity of freight, such shipment shall be considered and taken as the same quantity of freight. *Carroll's Stats. 1909, sec. 818.*

MINNESOTA One carload of freight of any kind or class shall be transported at as low a rate per ton, and per ton per
1880 mile, as any greater number of carloads of the same kind and class from and to the same points of origination or destination.
Rev. Laws 1905, sec. 2007.

MISSOURI Substantially identical with pars. 1877, 1878.
1881 *Rev. Stats. 1909, sec. 3181.*

NEW HAMPSHIRE *See par. 1796.*

NORTH DAKOTA Provisions for railroads, railroad corporations or common carriers substantially identical with pars. 1877, 1878.
1882 *Rev. Codes 1905, sec. 4370.*
See also par. 1772.

OHIO *See par. 732.*

SOUTH DAKOTA Provisions for common carriers (the transportation of freight or express) substantially identical with pars.
1883 1877, 1878. *Sess. Laws 1911, ch. 207, sec. 28.*

WASHINGTON Nothing in this act shall be taken to prohibit a gas, electrical or water company from establishing a sliding scale
1884 of charges whereby a greater charge is made per unit for a lesser than a greater quantity for gas, electricity or water or any service rendered or to be rendered. *Laws 1911, ch. 117, sec. 32.*

E. CHARGING A GREATER COMPENSATION FOR A SHORTER THAN FOR A LONGER DISTANCE SERVICE.

UNITED STATES It shall be unlawful for any common carrier to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the
1885 longer distance, or to charge any greater compensation as a through route than the aggregate of the intermediate rates; but this shall not be construed as authorizing any common carrier to charge or receive as great compensation for a shorter as for a longer distance. *Act to Regulate Commerce, sec. 4.*

Upon application to commission such common carrier may in special cases after investigation be authorized by commission
1886 to charge less for longer than for shorter distances for the transportation of passengers or property; and commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section. *Same.*

No rates or charges lawfully existing at the time of the passage of this amendatory act shall be required to be changed by reason of the provisions of this section prior to the expiration of
1887 six months after the passage of this act, nor in any case where application shall have been filed before commission in accordance with the provisions of this section until a determination of such application by commission. *Same.*

Whenever a carrier by railroad shall, in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points, it shall not be permitted to increase such rates unless after hearing by commission
1888 it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition. *Same.*

ARIZONA A provision for common carriers substantially
1889 identical with par. 1885. *Sess. Laws 1912, ch. 90, sec. 24(a).*

No telephone or telegraph corporation shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer
1890 distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any such telephone or telegraph corporation to charge and receive as great a compensation for a shorter as for a longer distance. *Same, sec. 24(b).*

Upon application to commission a telephone or telegraph corporation may in special cases after investigation be authorized by commission to charge less for a longer than for a shorter
1891 distance service for the transmission of messages or conversations, and commission may from time to time prescribe the extent to which such telephone or telegraph corporation may be relieved from the operation and requirements of this section. *Same, sec. 24(c).*

ARKANSAS

All individuals, associations and corporations shall have equal rights to have persons and property transported over railroads in the state, and no unjust or undue discriminations shall be made in charges for or any facilities for transportation of freight or passengers within the state. Persons and
1892 property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station, but excursion, immigration and commutation tickets may be issued at special rates. *Kirby's Digest* 1904, sec. 6722.

It shall be unlawful for any person or corporation to demand or receive any greater amount of compensation for a similar amount and kind of property for receiving, storing, loading, unloading, carrying or delivering the same under similar circumstances and conditions for a shorter than for a longer distance,
1893 which includes the shorter distance; and the road of any person or corporation shall include all the railroads in use by it, whether owned or operated by it under a contract, agreement or lease by such corporation or with which it has a traffic contract. *Same*, sec. 6807.

CALIFORNIA

Provisions for common carriers substantially
1894 identical with pars. 1885, 1886. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 24(a)*.

Also provisions for telephone and telegraph corporations
1895 identical with pars. 1890, 1891. *Same*, sec. 24(b).¹

CONNECTICUT

No railroad company shall charge or receive for the transportation of freight to any station on its road a greater sum than is at the time charged or received for the transportation of the like kind and quantity of freight from the same original point of departure and under similar circumstances to a station at a greater distance on its road in the same direction.

¹ No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates. Provided, however, that upon application to commission provided for in this constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property, and commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. Commission shall have power to authorize the issuance of excursion and commutation tickets at special rates. Nothing herein contained shall be construed to prevent commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to said shipper being excessive or discriminatory, provided no discrimination will result from such reparation. *Const., art. xii, sec. 21*.

Two or more railroad companies whose roads connect shall not charge or receive for the transportation of freight to any station on the road of either of them a greater sum than is at the time charged or received for the transportation of the like kind and quantity of freight from the same original point of departure and under similar circumstances to a station at a greater distance on the road of either of them in the same direction. In the construction of this section the sum charged or received for the transportation of freight shall include all terminal charges; and the road of a company shall include all the road in use by it whether owned and operated under a contract or lease. *Gen. Stats. 1902, sec. 3772.*

GEORGIA

See par. 783.

ILLINOIS

Provisions identical with pars. 1885, 1886.

1897 *Revisal 1909, ch. 114, sec. 191.*¹

¹ If any such railroad corporation shall charge, collect or receive for the transportation of any passenger, or freight of any description, upon its railroad, for any distance, within this state, the same or a greater amount of toll or compensation than is at the same time charged, collected or received for the transportation, in the same direction, of any passenger or like quantity of freight of the same class, over a greater distance of the same railroad or if it shall charge, collect or receive, at any point upon its railroad, a higher rate of toll or compensation for receiving, handling or delivering freight of the same class and quantity, than it shall, at the same time, charge, collect or receive at any other point upon the same railroad, or if it shall charge, collect or receive for the transportation of any passenger, or freight of any description, over its railroad, a greater amount as toll or compensation than shall, at the same time be charged, collected or received by it for the transportation of any passenger, or like quantity of freight of the same class, being transported in the same direction, over any portion of the same railroad, of equal distance or if it shall charge, collect or receive from any person or persons a higher or greater amount of toll or compensation than it shall, at the same time charge, collect or receive from any other person or persons for receiving, handling or delivering freight of the same class and like quantity, at the same point upon its railroad; or if it shall charge, collect or receive from any person or persons, for the transportation of any freight upon its railroad, a higher or greater rate of toll or compensation than it shall at the same time charge, collect or receive from any other person or persons, for the transportation of the like quantity of freight of the same class, being transported from the same point, in the same direction, over equal distances of the same railroad; or if it shall charge, collect or receive from any person or persons for the use and transportation of any railroad car or cars upon its railroad, for any distance, the same or a greater amount of toll or compensation than it at the same charged, collected or received from any other person or persons, for the use and transportation of any railroad car of the same class or number, for a like purpose, being transported in the same direction, over a greater distance of the same railroad; or if it shall charge, collect or receive from any person or persons, for the use and transportation of any railroad car or cars upon its railroad, a higher or greater rate of toll or compensation, than it shall, at the same time, charge, collect or receive from any other person or persons, for the use and transportation of any railroad car or cars of the same class or number, for a like purpose being transported from the same point, in the same direction, over an equal distance of the same railroad; all such discriminating rates, charges, collections or receipts, whether made directly, or by means of any rebate, drawback, or other shift or evasion, shall be deemed and taken, against such railroad corporation, as prima facie evidence of the unjust discriminations prohibited by the provisions of this act; and it shall not be deemed a sufficient excuse or justification of such discriminations on the part of such railroad corporation, that the railway station or point at which it shall charge, collect or receive the same or less rates of toll or compensation, for the transportation of such passenger or freight, or for the use and transportation, of such railroad car the greater distance, than for the shorter distance, is a railway station or point at which there exists competition with any other railroad or means of transportation. This section shall not be construed so as to exclude other evidence tending to show unjust discrimination in freight or passenger rates. The provisions of this section shall extend and apply to any railroad, the branches thereof, and any road or roads which any railroad corporation has the right, license or permission to use, operate or control, wholly or in part, within this state: provided, however, that nothing herein contained shall be so construed as to prevent railroad corporations from issuing commutation, excursion or thousand mile tickets, as the same are now issued by such corporations. *Rev. Stats. 1909, ch. 114, sec. 126.*

The following states have substantially identical provisions: Iowa, *Code 1897, sec. 2145*; North Dakota, *Rev. Codes 1905, sec. 4369*; South Carolina, *Gen. Stats. 1902, sec. 2085*; South Dakota, *Sess. Laws 1911, ch. 207, sec. 27.*

INDIANA

It shall be unjust discrimination for any carrier to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property or passengers for a shorter than for a longer distance over the same line in the same direction, the shorter distance being included in the longer; provided, that in cases where two or more carriers have lines between common points in the state and the line of one of such carriers is shorter than the other, then the carrier having the longer line between any two such common points may meet the rates between such common points which are established by the route having the shorter line; provided there is bona fide an actual competition between such two routes for the business between such common points. *Acts 1907, ch. 241, sec. 13(c).*

Upon application to commission it may for the purpose of preventing manifest injury authorize any such carrier to charge less for longer than for shorter distances for transporting persons and property; provided, that no manifest injustice shall be imposed upon persons, property and places at intermediate points; provided further that nothing herein shall be so construed as to prevent commission from approving what are known as "group rates" on any of the railroads in the state. *Same.*

See also par. 1745.

IOWA

It shall be unlawful for any common carrier to charge or receive any greater compensation in the aggregate for the transportation of passengers or a like kind of property for a shorter than for a longer distance over its railroad, all or any portion of the shorter haul being included within the longer, and shall charge no more for transporting freight to or from any point on its railroad than a fair and just rate, compared with the price it charges for the same kind of freight transportation to or from any other point. *Code 1897, sec. 2126.*

KANSAS

It shall be unlawful for any railroad company to charge a greater freight rate to haul any class of goods for a shorter distance than for a longer one in the same general direction under like conditions and over the same system of road except by the consent of commission. *Gen. Stats. 1909, sec. 7214.*

KENTUCKY

It shall be unlawful for any person or corporation owning or operating a railroad in this state or any common carrier to charge or receive any greater compensation in the aggregate for the transportation of passengers or of property of like kind under substantially similar circumstances and conditions

1902 for a shorter than for a longer distance over the same line in the same direction the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier or person or corporation owning or operating a railroad in the state to receive as great compensation for a shorter as for a longer distance. *Const., sec. 218.*

Upon application to commission such common carrier or person or corporation owning or operating a railroad in the state may in special cases after investigation by commission be authorized to charge less for longer than for shorter distances for 1903 the transportation of passengers or property; and commission may from time to time prescribe the extent to which such common carrier or person or corporation owning or operating a railroad in the state may be relieved from the operations of this section. *Same.*

If any person owning or operating a railroad in this state or any common carrier shall charge or receive any greater compensation in the aggregate for the transportation of passengers or property of like kind under substantially similar circumstances and conditions for a shorter than for a longer distance over the 1904 same line in the same direction, the shorter being included within the longer distance, such person shall for each offense be guilty of a misdemeanor, and fined not less than \$100 nor more than \$500, to be recovered by indictment in the Franklin circuit court or the circuit court of any county into or through which the railroad or common carrier so violating runs or carries on its business. *Carroll's Stats. 1909, sec. 820.*

Upon complaint made to commission that any railroad or common carrier has violated the provisions of this section, it shall be the duty of commission to investigate the grounds of complaint, and if after such investigation commission deems it proper to exonerate the railroad or common carrier from the operation of the provisions of this section, an order in writing to that effect shall be made by commission, and a copy thereof delivered to the complainant and the railroad or common carrier, and the same shall be published as a part of the report of commission; and after such order, the railroad or carrier shall not be prosecuted or fined 1905 on account of the complaint made. If commission after investigation fails to exonerate the railroad or carrier from the operation of the provisions of this section, an order in writing to that effect shall be made by commission, and a copy thereof delivered to the complainant and the railroad and common carrier, and the

same shall be published as a part of the report of commission; and after such order, it shall be the duty of commission to furnish a statement of the facts, together with a copy of its order, to the grand jury of any county, the circuit court of which has jurisdiction, in order that the railroad company or carrier may be indicted for the offense; and commission shall use proper efforts to see that such company or carrier is indicted or prosecuted.
Same.

LOUISIANA Commission shall prevent railroad, steamboat and other water craft, sleeping car, express, telephone and telegraph lines of the state from charging any greater compensation
1906 in the aggregate for the like kind of property or passengers or express for a shorter than for a longer distance over the same line unless authorized by commission to do so in special cases. *Const., art. 284.*

See also par. 799.

MARYLAND No common carrier shall charge or receive any greater compensation in the aggregate for the transportation of passengers or of a like kind of property under substantially similar circumstances and conditions for a shorter than for a longer
1907 distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. *Laws 1910, ch. 180, sec. 19.*

Upon application of a common carrier, commission may by order authorize it to charge less for longer than for shorter distances for the transportation of passengers or property in special cases after investigation by commission, but the order must specify and prescribe the extent to which the common carrier making
1908 such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any common carrier be relieved from the operation and requirements of this section. *Same.*

MASSACHUSETTS Substantially identical with par. 1896. *Acts*
1909 *1906, ch. 463, pt. ii, sec. 199.*

See also par. 2058.

MICHIGAN A provision substantially identical with par.
1907; also a provision identical with par. 1886. *Pub. Acts 1909,*
1910 *no. 300, sec. 9.*

See also par. 1412.

MINNESOTA

No carrier shall charge or receive any greater compensation for the transportation of passengers or of like kind or class and quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer distance; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance. *Rev. Laws 1905, sec. 2017.*

Also a provision substantially identical with par. 1886. *Same.*

No carrier shall charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge a higher rate per ton per mile for a longer as for a shorter distance. *Same.*

MISSISSIPPI

See pars. 807, 1824, 1825, 1826.

MISSOURI

No railroad corporation organized or doing business in the state shall directly or indirectly charge or collect for the transportation of goods, merchandise or property on its said road for any distance any larger or greater amount as toll or compensation than is charged or collected for the transportation of similar quantities of the same class of goods, merchandise or property over a greater distance upon the same road, nor shall such corporation charge different rates for receiving, handling or delivering freight at different points on its road or roads connected therewith which it has a right to use, nor shall any such railroad corporation charge or collect for the transportation of goods, merchandise or property over any portion of its road a greater amount as toll or compensation than shall be charged or collected by it for the transportation of similar quantities of the same class of goods, merchandise or property over any other portion of its road of equal distance; and all such rules, regulations or by-laws of any railroad corporation as fix, prescribe or establish any greater toll or compensation than is by law prescribed are declared to be void. *Rev. Stats. 1909, sec. 3173.*

It shall be unlawful for any common carrier to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property under similar circumstances and conditions for a shorter than a longer distance over the same line in the same direction; provided, however, that nothing con-

tained in this section shall apply to the carriage, storage or handling of property either free or at reduced rates for the United States, for the State of Missouri or for any fair, exposition, religious, scientific, benevolent or charitable purposes. *Same, sec. 3185.*

MONTANA No railroad or transportation or express company shall be allowed to charge, collect or receive under penalties which the legislative assembly shall prescribe, any greater
1916 charge or toll for the transportation of freight or passengers to any place or station upon its route or line than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within the state. *Const., art. xv., sec. 7.*

NEBRASKA No railroad company shall demand, charge, collect or receive for the transportation of any merchandise or
1917 other property upon railroads for any specific distance a greater sum than it demands, charges, collects or receives for a greater distance. *Cobbey's Annot. Stats. 1909, sec. 10559.*

If any railway company or common carrier through or by its officers, agents or employes shall charge or receive any greater compensation in the aggregate for transportation of a like kind of
1918 property or passengers for a shorter than for a longer distance over the same line, the same shall constitute an unjust discrimination which is prohibited. *Same, sec. 10662(c).*

Upon application to commission any railroad may in special cases to prevent manifest injury be authorized by commission to charge less for longer than for shorter distances for transporting persons and property, and commission shall from time to time prescribe the extent to which such designated railway company
1919 or common carrier may be relieved from the operation of this provision; provided, that no manifest injustice shall be imposed upon any citizen at intermediate points; provided, further, that nothing herein shall be construed so as to prevent commission from making what are known as "group rates" and "emergency rates" as provided by law on any line or lines of railway in the state. *Same.*

It shall be unlawful for any telegraph company, its agents, or operators to demand, charge or receive from any individual, association or corporation a greater sum for the transmission and delivery of any telegram or message over a given distance than it demands, charges or receives for the transmission and delivery

1920 of any telegram or message containing an equal number of words over a greater distance; provided that dispatches transmitted during the night and dispatches for publication in newspapers may be forwarded and delivered at reduced rates; such rates must, however, be uniform to all patrons for the same services. *Same, sec. 11956.*

See also pars. 1762, 1763.

NEVADA Nothing in this act shall be construed so as to allow any railroad to charge more for a shorter than for a longer
1921 haul either for passengers or freight when the shorter haul is included within the longer, or to authorize commission to allow such charge to be made. *Stats. 1907, ch. 44, sec. 7, as amended by Stats. 1909, ch. 121, sec. 3.*

NEW HAMPSHIRE No railroad corporation shall charge or receive for the transportation of freight to any station on its road in the state a greater sum including terminal charges than is at the same time charged or received for the transportation for the like class and quantity of freight from the same original point of departure
1922 to a station in the state at a greater distance in the same direction on its road. This provision shall apply to corporations operating two or more connecting railroads in the state as if the railroads belonged to or were operated by a single corporation. *Pub. Stats., ch. 160, sec. 19.*

If any railroad corporation shall violate the provisions of the preceding section, it shall be fined not exceeding \$500, and shall be liable to the party injured for all damages sustained by reason
1923 of such violation. No such action shall be maintained unless it is brought within two years from the date of the violation. *Same, sec. 20.*

NEW JERSEY No company shall charge or receive any greater rate of compensation for transportation of property between
1924 way stations or between a terminal station and a way station than for transportation of such property between terminal stations. *Laws 1903, ch. 257, sec. 44.*

NEW MEXICO No transportation or transmission company or common carrier shall charge or receive any greater compensation in the aggregate for the transportation as intrastate commerce of passengers or a like kind of property or for the transmission of
1925 the same kind of message between points in the state for a shorter than a longer distance over the same line or route in the same direction, the shorter being included within the longer dis-

tance; but this section shall not be construed as authorizing any such company or common carrier to charge or receive as great compensation for a shorter as for a longer distance; provided, that telegraph and telephone companies may in certain cases with the approval of commission, base their charges upon the air line distances instead of the distances actually traveled by the messages. *Const., art. xi., sec. 10.*

Commission may from time to time authorize any such company or common carrier to disregard the foregoing provisions of this section by charging such rates as commission may prescribe as just and equitable between such company or common carrier
1926 and the public, to or from any junction or competitive points or localities, or where the competition of points located without or within this state may necessitate the prescribing of special rates for the protection of the commerce of this state, or in cases of general epidemic, pestilence, calamitous visitations and other exigencies. *Same.*

This section shall not apply to mileage tickets or to any special excursion or commutation rates; nor to special rates for
1927 services rendered in the interest of any public or charitable object, when such tickets or rates shall have been prescribed or authorized by commission, nor shall it apply to special rates for services rendered to the United States or this state. *Same.*

NEW YORK Identical with pars. 1907, 1908. *Laws 1910, 1923 ch. 480, sec. 36.*

NORTH CAROLINA A provision substantially identical with par. 1929 1907. *Pell's Revisal 1908, sec. 1107.*

Upon application to commission such common carrier may in special cases be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; provided, that nothing in these
1930 provisions shall be taken as in any manner abridging or controlling the rates of freight charged by any railroad in this state for conveying freight which comes from or goes beyond the boundaries of the state and on which freight less than local rates on any railroad carrying the same are charged by such railroads. *Same.*

NORTH DAKOTA It shall be unlawful for any railroad, railroad corporation or common carrier to charge or receive any greater

compensation in the aggregate for the transportation of passengers or of a like kind of freight or property for a shorter than for a longer distance over its railroads, all or any portion of the shorter haul being included within the longer; and said railroad, railroad corporation or common carrier shall charge no more for transporting passengers or freight to or from any point on its railroads than a fair and just rate as compared with the price it charges for the same kind of transportation to or from any other point; provided, that all the provisions of this section shall apply to the transportation of passengers and all kinds of freight and property shipped and transported over one or more connecting lines; provided, further, that such connecting lines shall transfer car lots without extra compensation, and shall transfer less than car lots at actual cost for such transfer; and provided, further, that rates charged be made and published by such connecting lines for such continuous shipment upon demand for any shipper or shippers and that such rates so made by two or more connecting lines shall be no greater in the aggregate than the rate would be if shipped continuously upon one line of road. *Rev. Codes 1905, sec. 4335.*

OKLAHOMA No transportation or transmission company shall charge or receive any greater compensation in the aggregate for transporting the same class of passengers or property or for transmitting the same class of messages over a shorter than a longer distance along the same line and in the same direction, the shorter being included in the longer distance, but this section shall not be construed as authorizing any such company to charge or receive as great compensation for a shorter as for a longer distance. *Const., art. ix., sec. 30.*

Commission may from time to time authorize any such company to disregard the foregoing provisions of this section by charging such rates as commission may prescribe as just and equitable between points or localities or where the competition of points located without this state may make necessary the prescribing of special rates for the protection of the commerce of this state. *Same.*

This section shall not apply to mileage tickets or to any special excursion or commutation rates or to special rates for services rendered to this state or to the United States or in the interest of some public object, when such tickets or rates shall have been prescribed or authorized by commission. *Same.*

OREGON *See par. 1776.*

PENNSYLVANIA All individuals, associations and corporations shall have equal right to have persons and property transported over railroads and canals, and no undue or unreasonable discrimination shall be made in charges for or any facilities for transportation of freight or passengers within the state, or coming from or going to any other state. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding charges for transportation of persons and property of the same class in the same direction to any more distant station; but excursion and commutation tickets may be issued at special rates. *Const., art. xvii, sec. 3.*

SOUTH CAROLINA It shall be unlawful for any person or persons engaged in the transportation of property to charge or receive any greater compensation for carrying, receiving, storing, forwarding or handling articles of the same character and description for a shorter than a longer distance in one continuous carriage; and the road of the corporation shall include all of the road in use by such corporation whether owned or operated under a contract or lease by such corporation; provided, that nothing in these provisions shall be construed as to require any corporation or combination of corporations to regulate their charges for shorter distances by their proportion of through rates between terminal or junctional competitive points; provided, further, that if one corporation should use, operate or otherwise control wholly or in part several lines or divisions of hitherto independent railroads within the state that commission may in its discretion conjointly with the said corporations fix different rates of toll or compensation for freight traffic on each of said hitherto independent lines or divisions. *Gen. Stats. 1902, sec. 2086.*

Commission conjointly with the railroad companies shall have authority to make special rates for the purpose of developing all manufacturing, mining, milling and internal improvements in the state. *Same.*

See also par. 850.

SOUTH DAKOTA It shall be unlawful for any common carrier to charge or receive any greater compensation in the aggregate for the transportation of passengers, express, freight, messages by telephone or of a like kind of property for a shorter than for a longer distance over its railway, express or telephone line, all or any portion of the shorter haul being included within the longer. And said common carrier shall charge no more for transporting

freight, express or messages by telephone to or from any point on its lines than a fair and just rate as compared with the price it charges for the transportation of the same kind of freight, express or messages to or from any other point. *Sess. Laws 1911, ch. 207, sec. 8.*

1939 Also a provision identical with par. 1886. *Same.*
See also par. 1161.

TENNESSEE If any person owning or operating a railroad in the state or any common carrier shall charge or receive any greater compensation in the aggregate for the transportation of passengers or property of like kind under substantially like circumstances and conditions for a shorter than a longer distance over the same line in the same direction, the shorter being included within the longer distance, such person or common carrier shall for each offense be guilty of a misdemeanor and fined not less than \$100 nor more than \$500. *Acts 1897, ch. 10, sec. 18.*

1941 Commission shall be empowered to suspend section 18 of this act when in their opinion the conditions are such that such suspension will be beneficial to the best interest of the people and all whom it may concern. *Same, sec. 33.*

TEXAS It shall be unjust discrimination for any railroad to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers for a shorter than for a longer distance over the same lines. *Sayles' Civ. Stats. 1897, art. 4574(3).*

Upon application to commission any railroad may in special cases to prevent manifest injury be authorized by commission to charge less for longer than for shorter distances for transporting persons and property, and commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operations of this provision; provided, that no manifest injustice shall be imposed upon any citizen at intermediate points; provided, however, that nothing herein shall be so construed as to prevent commission from making what are known as "group rates" on any line or lines of railroad in this state. *Same.*

See also par. 1784.

VERMONT A railroad corporation whose railroad is located in the state shall not charge a larger sum for the transportation of freight, merchandise or passengers thereon for a less distance to or from a way station on its road than is charged for a greater

distance; and in case of a violation of this provision the excess so charged may be recovered from such corporation by the party aggrieved in an action for money had and received with costs. *Pub. Stats. 1906, sec. 4485.*¹

Two or more corporations whose roads connect shall not charge or receive for the transportation of freight to any station on the road of either of them a greater sum than is at the time charged or received for the transportation of the like class and quantity of freight from the same original point of departure to a
1946 station at a greater distance on the road of either in the same direction. This section shall not be construed as affecting the right of any railroad corporation to establish such rates on the freights shipped over its line in carload lots from points outside the state to points beyond the state as may seem for its best interests, and the sum charged or received for the transportation of freight shall include all terminal charges. *Same, sec. 4487.*

The person or corporation violating a provision of the two preceding sections shall be liable to the party aggrieved for all
1946 damages sustained by reason of such violation, in an action on the case; but such sections shall not be so construed as to prevent the issuing of excursion, mileage and commutation tickets. *Same, sec. 4488.*

A person or corporation that violates a provision of this
1947 chapter or any of the provisions of sections 4485 and 4486 shall be fined not more than \$1,000 for each offense. *Same, sec. 4541.*

VIRGINIA Provisions identical with pars. 1925, 1927.
1948 *Const., sec. 160.*

Commission may from time to time authorize any such company to disregard the foregoing provisions of this section by charging such rates as commission may prescribe as just and
1949 equitable between such company and the public to or from any junction or competitive points or localities, or where the competition of points located without the state may make necessary the prescribing of special rates for the protection of the commerce of this state. *Same.*

It shall be unlawful for any transportation company to take, charge or receive any greater compensation in the aggregate for

¹ Every joint stock company or corporation doing an express, parlor car or sleeping car business in this state shall be subject to the provisions of sections 4485 and 4486, and of this chapter; and all references and provisions therein or herein contained as to railroad companies shall be construed to extend and apply to corporations or joint stock companies operating express, parlor or sleeping car business within this state. Commission is authorized and empowered to exercise the same authority, control and regulation over and in regard to such companies or corporations and their business, within this state, as is granted it by this chapter in respect to railroad companies. *Pub. Stats. 1906, sec. 4537.*

the transportation of passengers of the same class or property along the same line in the same direction for a shorter than for a longer distance, the shorter being included within the longer distance; but this section shall not be construed as authorizing any such company to charge and receive as great compensation for a shorter as for a longer distance. *Pollard's Code 1904, sec. 1294c(1).*

Upon application to commission any such company may in special cases after investigation by commission be authorized to charge less for longer than for shorter distances for the transportation of passengers or property, and commission may from time to time prescribe the extent to which such designated company may be relieved from the operation of this section; provided, that nothing in these provisions shall be taken as in any manner abridging or controlling the rates of freight charged by any transportation company for conveying freight which comes from or goes beyond the boundaries of the state, and on which freight less than local rates on any transportation line carrying the same are charged by such company, but said company shall possess the same power and right to charge such rates for carrying such freight as they possessed before the passage of these provisions. *Same.*

Nothing in these provisions shall prohibit railroad or steamboat companies from making special passenger rates with excursion or other parties; also rates on such freights as are necessary for the comfort of such parties subject to the approval of commission. *Same.*

WASHINGTON No common carrier shall charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance, or charge any greater compensation as a through rate than the aggregate of the intermediate rates; but this shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. *Laws 1911, ch. 117, sec. 22.*

Upon application of a common carrier, commission may by order authorize it to charge less for a longer than for a shorter distance for the transportation of persons or property in special cases after investigation by commission, but the order must specify and prescribe the extent to which the common carrier

making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any common carrier be relieved from the operation and requirements of this section. *Same.*

No telephone or telegraph company shall charge or receive any greater compensation in the aggregate for the transmission of any long distance conversation or message of like kind for a shorter than for a longer distance over the same line in the same direction within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates; but this order shall not be construed as authorizing any such telephone or telegraph company to charge and receive as great a compensation for a shorter as for a longer distance. *Same, sec. 44.*

Upon application of any telephone or telegraph company commission may by order authorize it to charge less for a longer than for a shorter distance service for the transmission of conversation or messages in special cases after investigation, but the order must specify and prescribe the extent to which the telephone or telegraph company making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any telephone or telegraph company be relieved from the requirements of this section. *Same.*

F. GRANTING TO ANY PERSON, CORPORATION, LOCALITY OR PARTICULAR DESCRIPTION OF SERVICE ANY UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE, OR SUBJECTING THE SAME TO ANY UNDUE OR UNREASONABLE PREJUDICE OR DISADVANTAGE.

UNITED STATES It shall be unlawful for any common carrier to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. *Act to Regulate Commerce, sec. 3.*

ALABAMA

If any railroad company or other common carrier shall directly or indirectly make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality or subject any particular person, firm or corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, such railroad or common carrier shall be guilty of unjust discrimination, which is prohibited and declared unlawful, and shall be liable to the state in a penalty of not less than \$500 nor more than \$5,000 for each offense. *Code 1907, sec. 5540.*

ARIZONA

No public service corporation shall as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. No public service corporation shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service. Commission shall have the power to determine any question or fact arising under this section. *Sess. Laws 1912, ch. 90, sec. 19.*

CALIFORNIA

A provision for public utilities identical with 1960 par. 1959. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 19.*

COLORADO

It shall be unlawful for any common carrier to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality or concerning any particular description of freight traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality, or any particular freight traffic, to any undue or unreasonable prejudice or disadvantage, in any such respect whatsoever; provided that perishable products and live stock may be made special shipments and handled accordingly. *Laws 1910, sp. sess., ch. 5, sec. 5.*

INDIANA

It shall be an unjust discrimination for any railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any persons or property, or to subject any particular kind of traffic, or any particular person, place or locality to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever. *Acts 1907, ch. 241, sec. 13(a).*

See also par. 1745.

IOWA

It shall be unlawful for any common carrier to make or give any preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic, in any respect whatsoever, or subject any particular person, company, firm, corporation or locality, or any
1968 particular description of traffic to any prejudice or disadvantage in any respect whatsoever; but this shall not be construed to prevent any common carrier from giving preference as to time of shipment of live stock, uncured meats or other perishable property. *Code 1897, sec. 2125.*

See also par. 1900.

KANSAS

It shall be unlawful for any railroad company or other common carrier to grant any special privileges to any person, firm or corporation, either in the way of a preference in furnishing cars, side track facilities, sites for elevators, mills or warehouses, or any other form of preference, privilege or discrimination. It shall be unlawful for any railroad company or other
1964 common carrier, or any agent or employe thereof, or for any person, firm or corporation to enter into any secret agreement with any firm, person or corporation for the purpose of giving any firm, person or corporation any special privileges, favors or discriminations in favor of such firm, person or corporation. *Gen. Stats. 1909, sec. 7181.*

See also par. 1747.

KENTUCKY

It shall be unlawful for any corporation to make or give any undue or unreasonable preference or advantage to any particular person or locality, or any particular description of traffic, in any respect whatever, in the transportation of a like
1966 kind of traffic; or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage. *Carroll's Stats. 1909, sec. 818.*

See also par. 534.

MARYLAND

No gas or electrical corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description
1966 of service, in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. *Laws 1910, ch. 180, sec. 31½.*

No telegraph or telephone company shall make or give any

unjust or undue preference or advantage in rates charged or demanded, or in any other respect whatsoever, or subject any
1907 particular person, corporation or locality to any unfair prejudice or disadvantage, but shall furnish equal facilities to their patrons and transmit all messages in the order in which they are received.
Same, sec. 40.

See also pars. 537, 538, 539.

MASSACHUSETTS A railroad corporation shall not in its charge for the transportation of freight, or in the conduct of its freight business, make or give any undue or unreasonable preference or
1908 advantage to or in favor of any person, firm or corporation, nor subject any person, firm or corporation to any undue or unreasonable prejudice or disadvantage. *Acts 1906, ch. 463, pt. ii, sec. 201.*

MICHIGAN A provision identical with par. 1957. *Pub. Acts 1909, no. 300, sec. 17.*

It shall be unlawful for any telephone corporation to make or give any preference or advantage to any person, company,
1970 firm, corporation or locality, or subject any person, company, firm, corporation or locality to any prejudice or disadvantage in any respect whatever. *Pub. Acts 1911, no. 138, sec. 5.*

MINNESOTA Substantially identical with par. 1957, except
1971 that "unequal or unreasonable" is used instead of "undue or unreasonable." *Rev. Laws 1905, sec. 2009.*

MISSISSIPPI *See pars. 382, 808, 1824, 1825, 1826.*

MISSOURI It shall be unlawful for any common carrier to make or give any undue or unreasonable preference or advantage to any particular person, company or firm, corporation or locality, in the transportation of goods, wares and merchandise of any character, or to subject any particular person, firm, corporation or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage with respect to such transportation; and all such common carriers
1972 shall afford equal facilities for the interchange of traffic between their respective lines and for receiving, forwarding and switching cars and delivering property to and from their lines and to and from other lines and places connected therewith, and shall not discriminate in their accommodation, rates and charges between such connecting lines and places. But this provision shall not be construed as requiring such common carriers to give the use

or their traffic or terminal facilities to other common carriers engaged in a similar business. *Rev. Stats. 1909, sec. 3184.*

All express companies or corporations are prohibited from discriminating in favor of any particular shipper in any manner whatever, directly or indirectly, by any special rate, rebate, drawback or other device, and it shall be unlawful for any such company or corporation to give any undue or unreasonable preference or advantage to any particular person, company, firm, 1973 corporation or locality, or any particular description of traffic (or subject the same) to any undue or unreasonable prejudice or disadvantage with respect to such transportation; and all such express companies or corporations shall afford equal facilities for the interchange of traffic between their respective lines and shall not discriminate in their accommodations, rates, classifications or charges between such connecting lines and places. *Same, sec. 3289.*

See also par. 545.

NEBRASKA If any railway company or common carrier, through or by its officers, agents or employees, makes or gives any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or subjects any 1974 particular description of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever, the same shall constitute an unjust discrimination, which is prohibited. *Cobbey's Annot. Stats. 1909, sec. 10662(a).*

See also pars. 1761, 1762, 1763, 2323.

NEVADA Identical with par. 1957. *Stats. 1907, ch. 44, 1975 sec. 23.*

NEW HAMPSHIRE No railroad corporation or public utility shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of service, in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever; provided, however, that the provisions of this section shall not be taken to require absolute uniformity in the charges made and demanded by public 1976 utilities when the circumstances render any lack of uniformity reasonable, or be taken to prevent telephone, telegraph and cable companies from entering into contracts, subject to the approval of commission, with common carriers for the exchange of

services, or to affect existing contracts relating thereto; and provided, further, that said provisions shall not be taken to prohibit a public utility from establishing differential rates or a sliding scale for the automatic adjustment of such charges if said rates or sliding scale, subject to the approval of commission, shall be reasonable and just. *Laws 1911, ch. 164, sec. 7(d)*.

See also par. 549.

NEW JERSEY No public utility shall make or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or corporation, or to any locality, or to any particular description of traffic, in any respect whatsoever, or subject any particular person or corporation or locality, or any particular description of traffic to any prejudice or disadvantage, in any respect whatsoever. *Laws 1911, ch. 195, sec. 18(d)*.

NEW YORK A provision for common carriers substantially identical with par. 1957; also a provision for gas or electrical corporations identical with par. 1966. *Laws 1910, ch. 480, secs. 32, 65(3)*.

No telegraph or telephone corporation shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever. *Same, sec. 91(3)*.

Nothing in this chapter shall be construed to prevent any telegraph or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect, or upon the taking effect of any schedule or schedules of rates subsequently filed with commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts; provided, however, that when any such contract or contracts are or become terminable by notice, commission shall have power in its discretion to direct by order that such contract or contracts shall be terminated by the telegraph or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph or telephone corporation as and when directed by such order. *Same, sec. 91(4)*.

See also pars. 551, 552, 553.

NORTH CAROLINA If any common carrier shall, directly or indirectly, by any special rate, rebate, drawback or other device, make or give any undue or unreasonable preference or advantage

to any particular person, company, firm, corporation or locality, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person, company, firm, corporation or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such person or corporation shall be, upon conviction thereof, fined not less than \$1,000, nor more than \$5,000 for each and every offense. *Pell's Revisal 1908, sec. 3749.*

NORTH DAKOTA A provision for railroads, railroad corporations or common carriers identical with par. 1963. *Rev. Codes 1905, sec. 4333.*
See also pars. 1769, 1770, 1931.

OHIO A provision for common carriers substantially identical with par. 1957. *Code 1910, sec. 567.*

No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation or locality, or subject the same to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever. *Laws 1911, no. 325, sec. 17.*

The furnishing by any public utility of any product or service at the rates and upon the terms and conditions provided for in any existing contract executed prior to the passage of this act shall not be construed as constituting a discrimination or undue or unreasonable preference or advantage within the meaning specified; provided, however, that when any such contract or contracts are or become terminable by notice, commission shall have power in its discretion to direct by order that such contract or contracts shall be terminated as and when directed by such order. *Same, sec. 21.*

See also par. 559.

OKLAHOMA *See par. 326.*

OREGON If any railroad shall make or give any undue or unreasonable preference or advantage to any particular person, firm or corporation, or shall subject any particular person, firm, or corporation, or particular description of traffic, to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such railroad shall be deemed guilty of unjust discrimination, which is prohibited and declared unlawful; provided this section shall not prohibit any railroad from giving necessary

preference to live stock and perishable freight over other freight. *Gen. Laws 1907, ch. 53, sec. 49.*

If any railroad shall make or give any undue or unreasonable preference or advantage to any particular locality, or shall subject any particular locality to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such railroad
1907 shall be deemed guilty of unjust discrimination, which is prohibited and declared unlawful; provided this section shall not prohibit any railroad from giving any necessary preference to live stock and perishable freight over other freight. *Gen. Laws 1909, ch. 97, sec. 1.*

If any public utility shall make or give any undue or unreasonable preference or advantage to any particular person, firm or corporation, or to any particular locality, or shall subject any particular person, firm, corporation or locality to any undue or unreasonable prejudice or disadvantage, in any respect what-
1908 soever, such public utility shall be deemed guilty of unjust discrimination, which is prohibited and declared unlawful. Any person, firm or corporation convicted of violating any of the provisions of this section shall forfeit and pay into the state treasury not less than \$100, nor more than \$10,000 for each offense; and any agent or officer of any public utility, person, firm or corporation so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$100, nor more than \$1,000 for each offense. *Gen. Laws 1911, ch. 279, sec. 65.*

See also pars. 748, 2325.

PENNSYLVANIA *See par. 1778.*

RHODE ISLAND If any public utility shall make or give any undue or unreasonable preference or advantage to any particular person, firm or corporation, or shall subject any particular person, firm or corporation to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such public
1908 utility shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$200 nor more than \$500 for each offense. *Acts 1912, ch. 795, sec. 40.*

SOUTH CAROLINA No telephone company shall make any difference in the rates at which they furnish telephones and telephone service to its patrons or subscribers at its different offices or places of business in the several cities or towns, more than is necessary on account of the difference in the cost of supplying such

telephones and telephone service, the number of its subscribers at its different offices or places of business being taken into consideration. Any telephone company which shall violate the provisions of this section shall pay a forfeit to each of its subscribers or patrons when it charges such higher rate double the difference between the rate so unlawfully charged and the rate which should be charged, according to the provisions of this section, to be recovered by suit in any court of competent jurisdiction. *Gen. Stats. 1902, sec. 2222.*

SOUTH DAKOTA Identical with par. 1963. *Sess. Laws 1911, 1991 ch. 207, sec. 7.*

See also pars. 1780, 1938.

TENNESSEE A provision substantially identical with par. 1993 1965. *Acts 1897, ch. 10, sec. 17.*

Any railroad corporation that shall be guilty of extortion or unjust discrimination, or of giving to any description of traffic any undue or unreasonable preference or advantage, shall upon conviction, be fined in any sum not less than \$500 nor more than \$2,000. *Same, sec. 19.*

TEXAS It shall be an unjust discrimination for any railroad to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or to subject any particular description of traffic to any undue or unreasonable prejudice, delay or disadvantage, in any respect whatsoever. *Sayles' Civ. Stats. 1897, art. 4574(1).*

If any officer, agent, clerk, servant or employe, or receiver, or his agents, servants or employes, of any railroad company shall, for and on behalf of such railroad company, make or give any undue or unreasonable preference or any advantage to any particular person, company, firm, corporation or locality, as to any service rendered or to be rendered or performed by such railroad company, or subject any particular description of traffic of such railroad company to any undue or unreasonable prejudice, delay or disadvantage, in any respect whatever, such officer, clerk, servant or employe, or receiver, his agents, servants or employes, of such railroad company, shall be deemed guilty of unjust discrimination, and on conviction thereof shall be punished by confinement in the state penitentiary for not less than two nor more than five years. *Laws 1899, ch. 118, sec. 1.*

See also par. 1784.

VIRGINIA

A provision for transportation companies
1996 identical with par. 1957. *Pollard's Code 1904, sec. 1294c(3).*

See also par. 884.

WASHINGTON

A provision for common carriers substantially
identical with par. 1957; also a provision for gas, electrical or
1997 water companies identical with par. 1966. *Laws 1911, ch. 117,*
secs. 21, 30.

Nothing in this act shall be construed to prevent any gas,
electrical or water company from continuing to furnish its prod-
uct or use of its lines, equipment or service under any contract
or contracts in force at the date this act takes effect, or upon the
taking effect of any schedule or schedules of rates subsequently
filed with commission, as herein provided, at the rates fixed in
such contract or contracts; provided that commission shall have
1990 power in its discretion to direct by order that such contract or
contracts shall be terminated by the company party thereto, and
thereupon such contract or contracts shall be terminated by such
company as and when directed by such order; provided, further,
that commission shall have no power to order the termination of
any such contract relating to the furnishing of water for irriga-
tion or irrigation and domestic use, where such contract is based
upon a consideration passing at the time of the execution of such
contract. *Same, sec. 34.*

1999 Also a provision for telegraph or telephone companies iden-
tical with par. 1980. *Same, sec. 42.*

Nothing in this act shall be construed to prevent any
telegraph or telephone company from continuing to furnish
the use of its line, equipment or service under any contract or
contracts in force at the date this act takes effect, or upon
the taking effect of any schedule or schedule of rates subse-
quently filed with commission, as herein provided, at the rates
2000 fixed in such contract or contracts; provided, however, that com-
mission shall have power in its discretion to direct by order that
such contract or contracts shall be terminated by the telephone
or telegraph company party thereto, and thereupon such con-
tract or contracts shall be terminated by such telephone or tele-
graph company as and when directed by such order. *Same,*
sec. 43.

2001 Also a provision for wharfingers or warehousemen substan-
tially identical with par. 1966. *Same, sec. 50.*

WISCONSIN

If any railroad shall make or give any undue or
unreasonable preference or advantage to any particular person,

firm or corporation, or shall subject any particular person, firm
2002 or corporation to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such railroad shall be deemed guilty of unjust discrimination, which is prohibited and declared unlawful. *Laws 1905, ch. 362, sec. 1797-23.*

If any public utility shall make or give any undue or unreasonable preference or advantage to any particular person, firm or corporation, or shall subject any particular person, firm or
2003 corporation to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such public utility shall be deemed guilty of unjust discrimination, which is prohibited and declared unlawful. *Laws 1907, ch. 499, sec. 1797m-91.*

The furnishing by any public utility of any product or service at the rates and upon the terms and conditions provided for in any existing contract executed prior to April 1, 1907, shall
2004 not constitute a discrimination within the meaning specified. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$50, nor more than \$1,000 for each offense. *Same.*

G. ASSISTING OR PERMITTING PATRONS TO SECURE SPECIAL FAVORS OR ADVANTAGES, OR RATES OTHER THAN THOSE LAWFULLY ESTABLISHED.

UNITED STATES Any common carrier or whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing or false report of weight, or by any other device or means shall knowingly and willfully assist or shall willingly suffer or permit any person or persons to obtain transportation for property at less than the
2005 regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding \$5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense. *Act to Regulate Commerce, sec. 10.*

ARIZONA, CALIFORNIA

No common carrier or any officer or agent thereof or any person acting for or employed by it, shall by means of known false billing, classification, weight, weighing or report of weight or by any other device or means, assist, suffer or permit any corporation or person to obtain transportation for any person or property between points within the state at less than the rates and fares then established and in force as shown by the schedules filed and in effect at the time. *Ariz.—Sess. Laws 1912, ch. 90, sec. 23(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 23(a).*

KANSAS

See pars. 1816, 1964.

MARYLAND

No common carrier or any officer or agent thereof or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any passenger, freight or property between points within the state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of this act and the order of commission, by means of false billing, false classification, false weight or weighing or false report of weight or by any other device or means. *Laws 1910, ch. 180, sec. 17.*

MINNESOTA

It shall be unlawful for any common carrier directly or indirectly to offer or give any shipper in connection with or as an inducement or reward for receiving any property for transportation from any such shipper, any gift, gratuity or free pass whereby any passenger or freight shall thereafter be transported over the lines of such common carrier free or at any rate less than that offered to the public, and such common carrier shall be deemed guilty of unjust discrimination and shall be punished by a fine not exceeding \$5,000. *Acts 1905, ch. 177, sec. 1.*

NEW YORK

Substantially identical with par. 2007. *Laws 1910, ch. 480, sec. 34.*

SOUTH DAKOTA

Substantially identical with par. 2005. *Sess. Laws 1911, ch. 207, sec. 14.*

TEXAS

Any officer or agent of any railroad, who, by means of false billing, false classification, false weight or by any other device, shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on such railroad, or who, by means of false billing,

false classification, false weighing or by any device whatever, shall charge any person, firm or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor and on conviction thereof, fined in a sum not less than \$100 nor more than \$1,000. *Penal Code, art. 1009.*

VIRGINIA Any transportation company or officer or agent thereof, or any person acting for or employed by the same, who, by means of false billing, false classification, false weighing or false report of weight, or by any other device or means shall
2013 knowingly and wilfully assist or shall willingly suffer or permit any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such company, shall be fined not less than \$100 nor more than \$500. *Pollard's Code 1904, sec. 1294c(9).*

WASHINGTON Substantially identical with par. 2007. *Laws*
2013 *1911, ch. 117, sec. 23.*

H. SOLICITING, ACCEPTING OR RECEIVING SPECIAL FAVORS OR ADVANTAGES, OR RATES OTHER THAN THOSE LAWFULLY ESTABLISHED.

UNITED STATES Any person, corporation or company or any agent or officer thereof, who shall deliver property for transportation to any common carrier or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and wilfully directly or indirectly, himself or by employe, agent, officer or otherwise by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement or by any other device or means whether with or without the consent or connivance of the carrier, its agent or officer, obtain or attempt to obtain transportation for such property at less than the regular rates then established and in force on the line of transportation; or who shall knowingly and wilfully directly or indirectly, himself or by employe, agent, officer or otherwise by false statement or representation as to cost, value, nature or extent of injury or by the use of any false bill, bill of
2014 lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition knowing the same to be false, fictitious or fraudu-

lent or to contain any false, fictitious or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without consent or connivance of the carrier, whereby the compensation of such carrier for such transportation either before or after payment shall in fact be made less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is declared to be a misdemeanor, and shall upon conviction thereof in any court of the United States of competent jurisdiction, within the district in which such offense was wholly or in part committed, be subject for each offense to a fine of not exceeding \$5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court; provided, that the penalty of imprisonment shall not apply to artificial persons. *Act to Regulate Commerce, sec. 10.*

2018 If any person or any officer or agent of any corporation or company shall by payment of money or other thing of value, solicitation or otherwise, induce or attempt to induce any common carrier or any of its officers or agents to discriminate unjustly in his, its or their favor, as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding \$5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation or company shall also, together with said common carrier, be liable jointly or severally in an action to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom. *Same.*

It shall be unlawful for any person, persons or corporation to offer, grant or give or to solicit, accept or receive any rebate, concession or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier whereby any such property shall, by any device whatever, be transported at a less rate than that named in the tariffs pub-

lished and filed by such carrier as is required by law or whereby any other advantage is given or discrimination is practiced. Every person or corporation whether carrier or shipper who shall knowingly offer, grant or give or solicit, accept or receive any such rebates, concession or discrimination, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$20,000. *Elkins Act, sec. 1.*

Any person or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce as amended, or any receiver, trustee, lessee, agent or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this act shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another, it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein. *Same.*

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper, as well as that of the person. Whenever any carrier files with commission or publishes a particular rate under the provisions of law, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act. *Same.*

Any person, corporation or company who shall deliver property for interstate transportation to any common carrier, or for whom as consignor or consignee any such carrier shall transport property from one state, territory or the District of Columbia to any other state, territory or the District of Columbia or foreign

country, who shall knowingly, by employe, agent, officer or otherwise, directly or indirectly by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for the transportation of such property as fixed by the schedules of rates provided for by law, shall in addition to any penalty provided by this act, forfeit to **2019** the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the attorney general of the United States is authorized and directed whenever he has reasonable grounds to believe that any such person, corporation or company has knowingly received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both as the case may be. *Same.*

ARIZONA, CALIFORNIA

No person, corporation, or any officer, agent or employe of a corporation shall by means of false billing, false or incorrect classification, false weight or weighing, false representation as to contents or substance of a package, or false report or statement of weight, or by any other device or means, **2020** whether with or without the consent or connivance of a common carrier or any of its officers, agents or employes, seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor. *Ariz.—Sess. Laws 1912, ch. 90, sec. 23(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 23(a).*

No person or corporation, or any officer, agent or employe of a corporation, shall knowingly, directly or indirectly, by any false statement or representation as to cost or value or the nature or extent of an injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit or deposition, or upon any false, fictitious or fraudulent state-

2021 ment or entry, obtain or attempt to obtain any allowance, rebate or payment for damage in connection with or growing out of the transportation of persons or property, or an agreement to transport such persons or property, whether with or without the consent or connivance of a common carrier, or any of its officers, agents or employes; nor shall any common carrier or any officer, agent or employe thereof knowingly pay or offer to pay any such allowance, rebate or claim for damage. *Ariz.—Same, sec. 23(b); Cal.—Same, sec. 23(b).*

COLORADO

If any person or officer or agent of any corporation or company shall by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier or any of its officers or agents to discriminate unjustly in its or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor and shall upon conviction thereof in any court of this state of competent jurisdiction, be subject to a fine of not exceeding \$1,000; and such person, corporation or company shall also together with such common carrier be liable jointly or severally to consignor or consignee discriminated against, for all damages caused by or resulting therefrom. *Laws 1910, sp. sess., ch. 5, sec. 10.*

INDIANA

If any person or the agent or employe of any person or any member of any firm or any corporation or any officer, agent or employe of any firm or corporation shall intentionally accept or receive any rebate or concession in respect to the transportation of persons and property by any carrier wholly within this state, or for any other service performed by such carrier in connection therewith whereby any such persons or property shall by false billing, false classification, false weighing or any other device whatsoever be transported at a less rate than that prescribed in the published tariffs then in force and on file with commission or which have theretofore been established by commission, or ordered to be observed by any court as provided in this act, then every such person shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$100 nor more than \$2,000, to which may be added imprisonment in the county jail not exceeding one year, in the discretion of the court or jury trying the case. *Acts 1907, ch. 241, sec. 14(b).*

KANSAS

See par. 1816.

MARYLAND

No person, corporation or any officer, agent or employe of a corporation who shall deliver freight or property for transportation within the state to a common carrier shall seek to obtain or obtain transportation for such property at less than the rates then established and in force therefor, by false
2024 billing, false or incorrect classification, false weight or weighing, false representation of the contents of a package or false report or statement of weight, or by any other device or means whether with or without the consent or connivance of the common carrier or any of its officers, agents or employes. *Laws 1910, ch. 180, sec. 17.*

MICHIGAN

It shall be unlawful for any person, firm or corporation knowingly to accept or receive any rebate, concession or discrimination in respect to transportation of any property wholly in this state, or for any service in connection therewith
3023 whereby any such property shall by false billing, false classification, false weighing or any other device whatsoever be transported at a less rate than that named in the published tariffs in force as provided by law or whereby any service or advantage is received other than is therein specified. *Pub. Acts 1909, no. 300, sec. 18.*

Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on con-
3025 viction thereof shall be punished by a fine of not more than \$500, or by imprisonment in the county jail for a term of not to exceed three months, or by both, in the discretion of court, for each offense. *Same.*

It shall be unlawful for any person, firm or corporation directly or indirectly to ask, demand or accept any rebate, draw-
3027 back or other device whereby he shall obtain telephone service for any less rate than that charged others in like circumstances. *Pub. Acts 1911, no. 138, sec. 4.*

MINNESOTA

Any person who shall knowingly, either for himself or for any firm or corporation, directly or indirectly receive from any common carrier any reduction of rate, rebate,
3028 gratuity or other favor as is declared by law to be an unjust discrimination by such common carrier, shall be guilty of a misdemeanor. *Acts 1905, ch. 177, sec. 1.*

MISSISSIPPI

See par. 2194.

NEBRASKA

It shall be unlawful for any person or persons to offer, grant or give, or to solicit, accept or receive any rebate, concession or service in respect to the transportation of any property within this state by any common carrier whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier as is required by law or charged others for like service. Every person who shall offer, grant or give or solicit, accept or receive any such rebate, concession or service, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$5,000. *Cobbey's Annot. Stats. 1909, sec. 12041.*

NEVADA

A provision identical with par. 2025. *Stats. 1907, ch. 44, sec. 24.*

Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$50 nor more than \$1,000 for each offense. *Same.*

NEW YORK

Identical with par. 2024. *Laws 1910, ch. 480, sec. 34.*

NORTH CAROLINA Any shipper or consignee of any freight in the state who shall knowingly accept any rebate or other consideration or service from any railroad company which is not allowed or given other shippers or consignees under like or similar circumstances, and which is not allowed by law, shall be guilty of a misdemeanor and fined or imprisoned, in the discretion of the court. *Laws 1907, ch. 217, sec. 2.*

OHIO

Whoever being a person, firm or corporation knowingly accepts or receives a rebate, concession or discrimination in respect to transportation of property wholly within this state, or for service in connection therewith, whereby such property by false billing, false classification, false weighing or other device is transported at a less rate than that named in the published tariffs in force, or whereby any service or advantage is received other than that therein specified, shall be fined not less than \$50 nor more than \$1,000. *Code 1910, sec. 568.*

OREGON

It shall be unlawful for any person, firm or corporation knowingly to accept or receive any rebate, concession or discrimination in respect to transportation of any passenger or property wholly within the state, or for any service in connection

2035 therewith whereby any such property shall by any device whatsoever be transported at a less rate than that named in the published tariffs in force, as provided by law, or whereby any service or advantage is received other than is specified by law. *Gen. Laws 1907, ch. 53, sec. 50.*

2036 Also a provision identical with par. 2031. *Same.*

It shall be unlawful for any person, firm or corporation knowingly to solicit, accept or receive any rebate, concession or discrimination in respect to any service in or affecting or relating to the transportation of persons by street railroad, or to production, transmission, delivery or furnishing of heat, light, water or
2037 power or the conveying of telegraph or telephone messages within the state, or for any service in connection therewith whereby any such service shall by any device whatsoever or otherwise be rendered free or at a less rate than that named in the published schedules and tariffs in force as provided by law or whereby any service or advantage is received other than is specified by law. *Gen. Laws 1911, ch. 279, sec. 66.*

2038 Also a provision identical with par. 2031. *Same.*

RHODE ISLAND It shall be unlawful for any person, firm or corporation knowingly to solicit, accept or receive any rebate, concession or discrimination in respect to any service in or affecting or relating to the transportation of persons or property, or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or the conveying of telephone or telegraph messages within the state, or for any service
2039 in connection therewith, whereby such service shall by any device whatsoever or otherwise, be rendered free or at a less rate than that named in the published schedules in force as provided by law, or whereby any service or advantage is received other than is specified by law. *Acts 1912, ch. 795, sec. 41.*

Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon
2040 conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500 for each offense. *Same.*

SOUTH DAKOTA A provision applicable to the transportation of "property or express freight" identical with par. 2014. *Sess. Laws 1911, ch. 207, sec. 14.*

VERMONT A person who knowingly receives directly or indirectly the benefit of any rebate, any lower rate, fare or charge for transportation of persons or property or for any service con-

2042 nected therewith than is fixed by the schedule posted as provided by law, or any officer or employe of any railroad or transportation company granting the same, or knowingly consenting thereto, shall be imprisoned not more than one year or fined not more than \$1,000 for each offense. *Pub. Stats. 1906, sec. 4541.*

VIRGINIA

Any person or any officer of any corporation or company who shall deliver property for transportation to any transportation company, or for whom as consignor or consignee any such transportation company or line shall transport property, who shall knowingly and wilfully by false billing, false classification, false weighing, false representation of the contents of the
2043 package or false report of weight, or by any other fraudulent device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be fined not less than \$100 nor more than \$500 for each offense. *Pollard's Code 1904, sec. 1294c(10).*

If any person or any officer or agent of any corporation or company shall by payment of money or other things of value, solicitation or otherwise fraudulently induce any transportation company or any of its officers or agents to unjustly discriminate
2044 in his, its or their favor against any other consignor or consignee in the transportation of property, or shall aid or abet any transportation company in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be fined not less than \$100 nor more than \$500 for each offense. *Same, sec. 1294c(11).*

WASHINGTON

A provision substantially identical with par.
2045 2024. *Laws 1911, ch. 117, sec. 23.*

No person, corporation or any officer, agent or employe of a corporation shall knowingly or wilfully, directly or indirectly, by any false statement or representation as to the cost, value, nature or extent of injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit or deposition, knowing the same to be false, fictitious or
2046 fraudulent or to be upon any false, fictitious or fraudulent statement or entry, obtain or attempt to obtain any allowance, rebate or payment for damage or otherwise in connection with or growing out of the transportation of persons or property, or agreement to transport such persons or property, whether with or without

the consent or connivance of such common carrier or any of its agents or employes, whereby the compensation of such carrier for such transportation shall be in fact made less than the rates then established and in force therefor. *Same.*

No person, corporation or any officer, agent or employe of a corporation who shall deliver property for transportation within the state to a common carrier, shall seek to obtain or obtain such
2047 transportation by any false representation, false statement or false paper or token as to the contents or substance thereof, where the transportation of such property is prohibited by law. *Same.*

WISCONSIN Provisions applicable to the transportation of property identical with pars. 2035, 2031. *Laws 1905, ch. 362,*
2048 *sec. 1797-24.*

Also provisions identical with pars. 2037, 2031, except that they do not apply to "the transportation of persons by street
2049 railroad" nor to "the conveying of telegraph messages." *Laws 1907, ch. 499, sec. 1797m-22.*

I. GENERAL DUTY OF UTILITIES NOT TO DISCRIMINATE AS TO CHARGES OR FACILITIES.¹

ARKANSAS All persons or corporations shall furnish without discrimination or delay equal and sufficient facilities for the transportation of passengers, the receiving, loading and unloading, storage, carriage and delivery of all property of a like character carried by him, them or it, and shall perform with equal expedition and at uniform rates the same kind of service connected with the contemporaneous transportation thereof. And
2050 it shall be unlawful for any person or corporation engaged as aforesaid to enter into any contract, or agreement, by changes of schedule, use of different cars or any other means or device, with intent to delay or prevent the shipment of such property from being continuous from the place of shipment to the place of destination, whether carried on one or more railroads. *Kirby's Digest 1904, sec. 6804.*

FLORIDA If any railroad, railroad company or other common carrier shall make any unjust discrimination in its rates or charges of toll or compensation for the transportation of pas-

¹ This division also includes certain miscellaneous prohibitions against discrimination in rates and service not classified elsewhere.

sengers or freight of any description, or for the use and transportation of any railroad car upon any railroad or upon any of the branches thereof, or upon any railroad or steamship lines connected therewith, which it has the right, license or permission to operate, use or control within this state, the same shall be guilty of violating the provisions of this act, and upon conviction thereof shall be dealt with as provided by law. *Gen. Stats. 1906, sec. 2889.*

GEORGIA, ILLINOIS

If any railroad corporation shall make any unjust discrimination in its rates or charges of toll or compensation for the transportation of passengers or freights of any description, or for the use and transportation of any railroad car upon such road, or upon any of the branches thereof, or upon any railroads connected therewith which it has the right, license or permission to operate, control or use within the state, the same shall be deemed guilty of having violated the provisions of law and upon conviction thereof shall be dealt with as provided by law. *Ga.—Code 1911, sec. 2629; Ill.—Revisal 1909, ch. 114, sec. 125.*

IOWA

When shipments of freight to be transported between different points within the state are required to be carried by two or more railway companies operating connecting lines, such railway companies shall transport the same at reasonable through rates, and shall at all times give the same facilities and accommodations to local state traffic as they give to interstate traffic over their lines of road. *Code 1897, sec. 2154.*

KENTUCKY

No railway, transfer, belt line or railway bridge company shall make any exclusive or preferential contract or arrangement with any individual, association or corporation, for the receipt, transfer, delivery, transportation, handling, care or custody of any freight, or for the conduct of any business as a common carrier. *Const., sec. 214.*

See also par. 1749.

MASSACHUSETTS

Every railroad corporation shall, subject to the provisions of section 201, give to all persons reasonable and equal terms, facilities and accommodations for the transportation upon its railroad of themselves, their agents and servants and of their merchandise and other property, and for the use of its depot and other buildings and grounds; and at any point

where its railroad connects with another railroad it shall give reasonable and equal terms and facilities of interchange. *Acts 1906, ch. 463, pt. ii, sec. 196.*

The provisions of the preceding section shall apply to all persons engaged only in a local express business for the forwarding of express matter between points within the commonwealth within trains or cars of any railroad corporation, and to persons desiring to engage therewith who obtain the recommendation of the railroad commission therefor, and who agree in writing to indemnify the corporation against all loss of and damage to any property which is carried by them on its trains. Such recommendation shall be given only after notice to all parties interested and a hearing thereon, and with regard among other considerations to the public interest. Such corporation may contract with one or more persons for the express service over its railroad or system, subject to the rights of such persons as may then be engaged in or shall have obtained the recommendation aforesaid to conduct such local express business thereon between points within this commonwealth under the provisions of this section; and the terms, facilities and accommodations provided for such last named persons shall not be unreasonable or unequal, having regard to the amount and character of the service and also to such reasonable regulation of said business which may be for the public interest and the efficient operation of the railroad. The provisions of this section shall not deprive any railroad corporation of any right which it has under its charter or under general laws, to perform all the transportation of property upon its railroad. The supreme court or the superior court shall have jurisdiction to enforce the provisions of this section by injunction, mandamus or other suitable process. *Same, sec. 197.*

Every railroad corporation shall promptly forward merchandise consigned to or directed to be sent over another railroad connecting with its railroad, according to the directions contained thereon or accompanying the same, and shall not receive and forward over its railroad merchandise consigned to or directed to be sent by a different route. *Same, sec. 198.*

A railroad corporation which violates any provision of the four preceding sections, in addition to liability for all damages sustained by reason of such violation, shall for each offense forfeit \$200, which shall be recovered in an action of tort to his own use by the party aggrieved, or to the use of the commonwealth

by the attorney general or the district attorney of the district in which such violation was committed; but no such action shall be maintained unless brought within one year after the date of such violation. *Same, sec. 200.*

MICHIGAN

No railroad corporation shall in any manner discriminate in its rates of freight tariff in favor of any individual, company or corporation doing business over its line of road, and shall grant the same rights and privileges to all shippers, subject to the same rates and classification, without rebate or any other special privilege or rate not extended to all other shippers in the same class who ship a like quantity or quantities. Any railroad corporation refusing to comply with any of the provisions of this section shall be liable to a penalty not exceeding \$500. *Comp. Laws 1897, sec. 6266.*

It shall be unlawful for any express company operating and doing business in the state to discriminate in favor of or against any shipper or shippers, or to refuse or fail to receive and transport proffered merchandise or other property, providing such merchandise or other property is a proper subject for shipment by express and in proper condition at the time of presentation for shipment from any point where such express company shall maintain or conduct an office or station, or to and from any junction point or points where the line of such express company intersects with the line of any other express company, or to or from any given terminal to any point on its own line, and the charge and compensation for the transportation of such merchandise or other property by two or more express companies shall not exceed by 30 per cent. the maximum charge for the same distance on any one line, such maximum charge being determined as prescribed by law. *Pub. Acts 1911, no. 139, sec. 25(b).*

MISSOURI

Railways heretofore constructed or that may hereafter be constructed in this state are declared public highways and railroad companies common carriers. No railway company, corporation or association shall make any discrimination in charges or facilities in the transportation of freight or passengers between transportation companies and individuals, nor in the transportation of freight between commission merchants or other persons engaged in the transportation of freight and individuals, in favor of either, by abatement, drawback or otherwise, nor shall any such company, corporation or association, nor any lessee, manager or employe of any such company, corporation or asso-

ciation make any preference between the parties aforesaid in furnishing cars or motive power for the purpose aforesaid. Any company, corporation or association, or manager, lessee or employe violating the provisions of this section shall forfeit and pay to the parties injured the whole amount of such transportation charge, to be recovered before any court of competent jurisdiction. *Rev. Stats. 1909, sec. 3174.*

Whenever any express company authorized to do business in the state shall desire to carry on their express business along and on the line of any railroad in the state and shall make application to the officers or managers of any railroad for cars, transportation and other proper facilities to carry on their said business, it shall be the duty of said railroad company to make such arrangement
2062 and provide such facilities as will enable said express company to carry on and transact its said express business and to receive and discharge freight, valuables, money, jewelry and other property entrusted to it for transportation at all the stations and stopping places on the line of said railroad, and it shall be no excuse for refusing such facilities that another express company is already furnished with facilities and is actually doing business on the said railroad. *Same, sec. 3208.*

Any railroad company owning or operating a railway in this state that shall refuse or deny any of the rights and privileges granted to any other express company to the express company so applying for facilities to carry on their said business on and along the line of the said railroad, or shall charge, take from or receive any greater or different toll, charge or rent for the privilege of
2063 carrying on their said express business, or for like services than it at the same time charges or receives from any other express company, shall forfeit and pay for every such refusal, denial of facilities to carry on their said business, or for discrimination in favor of any one express company against another, any sum not less than \$500, nor more than \$1,000, to be recovered by civil action in any court of competent jurisdiction. *Same, sec. 3209.*

Commission is required to take jurisdiction of all violations of the provisions of sections 3208 to 3210 inclusive and see that competition in the express business is not prevented by the refusal of said railroad companies to provide facilities to more than one express company to carry on their express business on and along the line of the said railroads at the same time; and whenever commission shall in any manner come into possession of information which in its judgment warrants prosecution of any

2064 railroad company for preventing competition in the express business by refusing to grant facilities on equal terms, to two or more express companies on and along the line of their railway, or for the violation of any of the provisions of said sections, it shall be the duty of commission immediately to cause suits to be commenced and prosecuted against such railroad company. Such suits may be instituted in any county in the state into or through which the line of the railroad company sued for violating said sections may run, and it is made the duty of the attorney general and of any prosecuting attorney in the state at the request of commission to commence and prosecute any actions commission may desire to institute for the violation of any of the provisions of said sections. *Same, sec. 3210.*

MONTANA All individuals, associations and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by
2065 any railroad or transportation or express company between persons or places within this state. No railroad, express or transportation company, nor any employe, manager or other employe thereof shall give any preference to any individual, association or corporation in furnishing cars or motive power or for the transportation of money or other express matter. *Const., art. xv, sec. 7.*

NEBRASKA If any railway company or common carrier, through or by its officers, agents or employes, shall fail, refuse or neglect, under such regulations as may be prescribed by commission, to receive and transport without delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad, and every railroad which shall under such regulations as may be prescribed by commission fail or refuse to transport and deliver without delay or discrimination any passengers,
2066 tonnage or cars loaded or empty destined to any point on or over the line of any connecting carrier, the same shall constitute an unjust discrimination which is prohibited; provided perishable freight of all kinds and live stock shall have precedence in shipment. *Cobbeys Annot. Stats. 1909, sec. 10662(b).*

Every telegraph company and every press association engaged in the transmission, collection, distribution or publication of dispatches shall afford the same and equal facilities to all publishers of newspapers and furnish the dispatches collected by them
2067

for publication in any given locality to all newspapers there published on the same conditions as to payment and delivery. *Same, sec. 11958.*

Any press association, corporation, or organization violating the foregoing section shall be deemed guilty of a misdemeanor, and upon conviction shall, for each and every offense, be fined in any sum not less than \$100 nor more than \$1,000, and in addition thereto such association and the members thereof shall be jointly and severally liable for all damages sustained by the owner of any newspaper in consequence of such discrimination. *Same, sec. 11959.*

See also pars. 1762, 1763.

NEW JERSEY

See par. 550.

NEW YORK

No preference for the transaction of the business of a common carrier upon its cars or in its depots or buildings or upon its grounds shall be granted by any railroad corporation to any one or two or more persons, associations or corporations competing in the same business or in the business of transporting property for themselves or others. *Laws 1910, ch. 481, sec. 54.*

PENNSYLVANIA

Any undue or unreasonable discrimination by any railroad company or other common carrier or any officer, superintendent, manager or agent thereof in charges for or in facilities for the transportation of freight within the state or coming from or going to any other state is declared to be unlawful. *Purdon's Digest, "Railroads," sec. 229.*

SOUTH CAROLINA

It shall not be lawful for any railroad company chartered by this state¹ to discriminate against any railroad company which may connect with it, either at one of its terminal stations or at any intermediate point on its line where said companies have stations and agents established, by neglecting or refusing to deliver with due diligence to said connecting road in the yard or on the track of the same of cars wholly or partly loaded with freight consigned to points on said connecting road or to points beyond its lines; but in all cases where freight is to be delivered to a connecting road to complete its transportation, such delivery shall be made by the railroad which brought the freight to the

¹ In the construction of the three preceding sections (2097-2099), the term "railroad company chartered by this state" shall be held to mean each railroad company holding its franchise under a separate charter granted by this state; and no ownership or shares of the capital stock of one corporation by another corporation, nor any lease, contract or other agreement between corporations or individuals, shall operate as a bar to the provisions of this chapter. *Gen. Stats. 1902, sec. 2100.*

connecting point, and no additional charge shall be made therefor; provided, however, that said delivering road may demand of its connections payment of all charges which have accrued thereon, on or before delivery of said freight on the tracks or in the yards of its connecting road. *Gen. Stats. 1902, sec. 2097.*

It shall not be lawful for any railroad company chartered by this state¹ to discriminate in favor of or against any railroad company which may connect with it either at one of its terminal stations or at an intermediate point on its lines where said companies have stations and agents established, as against any other railroad company which may connect with it at the same station or point by refusing either to receive freight for shipment or to issue through bills of lading at equal rates of freight for the same, to any one given destination, reached by any or all of said connecting roads or their connections for which freight is received, or through bills of lading are issued, to be forwarded by any other of such connecting roads at the same point; provided, however, if any of the said connections shall refuse to transport freight from its own terminus to the ultimate destination of said freight at the same rate as is charged by any other connections at the same point, then the initial road shall be released from the provisions of this section, and the said connecting road shall not be entitled to the benefit of its provisions. *Same, sec. 2098.*

It shall not be lawful for any railroad company chartered by this state¹ to discriminate in its rate of freight in favor of or against any railroad company which may connect with it either at one of its terminal stations or at any intermediate point on its line; but in all cases the charges on freight of the same character having the same original point of shipment and the same destination shall be uniform to and from all lines making connection with the said railroad at the same point. *Same, sec. 2099.*

SOUTH DAKOTA No person or telephone company shall unjustly discriminate either between persons or telephone companies in the switching, transfer or delivery of messages; nor shall such telephone company make different rates for its subscribers for the same class of service in any city or town where it is operating.

Al such charges and rates shall be uniform to its subscribers for the same class of service. Any person or telephone company and any officer or agent of any telephone company violating any provision of this section shall upon conviction thereof be punished by a fine of not more than \$200. *Sess. Laws 1911, ch. 218, sec. 6.*

¹See footnote on preceding page.

TENNESSEE

No railway company shall charge more than the maximum amount for freights allowed by its charter, nor shall any railway company unjustly discriminate against the way freights of any person or locality on the same road, or unjustly
2076 classify rates or unjustly discriminate against the different classes of freight shipped over its road, nor shall any railway company unjustly charge extortionate rates for the transportation of any freights over its road. *Code 1906, sec. 3061.*

A railroad company that shall be guilty of a violation of the provisions of sections 3060-3062 shall be liable to the unjured
2076 party in the sum of \$500, which may be sued for and recovered in any of the courts of this state having jurisdiction of the subject matter. *Same, sec. 3063.*

VERMONT

A person or corporation operating a railroad shall give to all persons reasonable and equal terms, benefits, facilities and accommodations for the transportation of themselves, their agents and servants and of merchandise and other property
2077 upon such railroad and for the use of the depots, buildings and grounds thereof, and, at any point where such railroad connects with another railroad, reasonable and equal facilities of interchange. *Pub. Stats. 1906, sec. 4486,¹ as amended by Laws 1908, no. 105, sec. 1.*

A person or corporation operating a railroad in this state shall give to each station upon its line when so requested in writing by 25 legal voters and freeholders of the town or village in which such station is situated the same and equal accommodations
2078 and facilities as to market days and market day rates of fare to and from such station, on any regular train upon the day of the week requested as is given by such person or corporation to any station upon its line. *Same, sec. 4490.*

A violation of the preceding section shall be construed to be
2079 an unjust discrimination. A person or corporation violating such section shall be fined not more than \$500. *Same, sec. 4491.*

See also par. 1947.

¹ See footnote, par. 1944.

II. FREE OR REDUCED RATE OR SPECIAL SERVICE.

J. GENERAL PROHIBITIONS AGAINST OFFERING, GRANTING, SOLICITING OR ACCEPTING FREE OR REDUCED RATE OR SPECIAL SERVICE, WITH EXCEPTIONS THERETO.

UNITED STATES No common carrier shall after January 1, 1907, directly or indirectly issue or give any interstate free ticket, free pass or free transportation for passengers except to its employes and their families, its officers, agents, surgeons, physicians and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of live stock, poultry, milk and fruit; to employes on sleeping cars and express cars, and to linemen of telegraph and telephone companies; to railway mail service employes, post-office inspectors, customs inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons. Provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employes of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; and provided further that this provision shall not be construed to prohibit the privilege of passes or franks or the interchange thereof with each other for the officers, agents, employes and their families of such

telegraph, telephone and cable lines, and the officers, agents, employees¹ and their families of other common carriers. *Act to Regulate Commerce, sec. 1.*

Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense on conviction shall pay to the United States a penalty of not less than \$100 nor more than \$2,000, and any person other than the persons excepted in this provision who uses any such interstate free ticket, free pass
2001 or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the states," approved February 19, 1903, and any amendment thereof. *Same.*

Nothing in this act shall be construed to prevent telephone,
2002 telegraph and cable companies from entering into contracts with common carriers for the exchange of services. *Same.*

In time of war or threatened war preference and precedence shall upon the demand of the president of the United States be
2003 given over all other traffic to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic. *Same, sec. 6.*

Nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion or to municipal governments or for the transportation of indigent persons, or to inmates of the national homes
2004 or state homes for disabled volunteer soldiers, and of soldiers' and sailors' orphan homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this act shall be

¹ Provided, that the term "employees" as used in this paragraph shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any common carrier, and the remains of a person killed in the employment of a carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this provision, also the families of persons killed and the widows during widowhood and minor children during minority of persons who died while in the service of any such common carrier. *Act to Regulate Commerce, sec. 1.*

construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies; provided, that no pending litigation shall in any way be affected by this act; provided, further, that nothing in this act shall prevent the issuance of joint interchangeable 5,000-mile tickets with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 or more miles. *Same, sec. 22.*

2065 The provisions of section ten of this act shall apply to any violation of the requirements of this proviso. *Same.*

ALABAMA

Nothing in this article shall prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic
2066 under similar circumstances and conditions, and shall be subject to the provisions of this article as to the printing and filing of the same; but all such rates shall be under the supervision and regulation of commission. *Code 1907, sec. 5534.*

All street railway companies or persons or companies owning or operating street railways in this state, are authorized to furnish members of the police force and of the fire department and sanitary inspectors of any city or town through or into which their lines run, free or reduced transportation to and from their homes and to and from places to which their duties may call them; and to grant special or reduced rates to all pupils attending
2067 schools on or near such lines of railway for transportation between their homes and such schools; provided, however, that before free transportation or special or reduced rates are granted under the provisions of this act, said carrier shall file with commission a statement setting forth the terms and conditions upon which they grant such free transportation, special or reduced rates. *Acts 1907, sp. sess., no. 20, sec. 1.*

No common carrier whether a corporation, association, partnership or person engaged in the business of a common carrier of passengers in this state, or the agent, officer, servant or employe of such shall give, procure for or deliver to any person or accept any free passes, tickets or free transportation for any person, or give, make or allow any rebate, discount or reduction from such rates as are offered or given to the public at large, ex-

cept to its employes and their families, and employes recently discharged by or having quit the service of any common carrier, going home or going to another place to seek employment within six months after such quitting or discharge, its officers or agents, its surgeons or physicians and its attorneys at law and the immediate families of such persons, to ministers of religion, traveling secretaries of the Young Men's Christian Association and the Young Women's Christian Association, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work, to indigent, destitute and homeless persons, and to such persons when transported by charitable societies and hospitals and the necessary agents employed in such transportation, to inmates of the national home or state home for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and board of managers of such homes, to necessary caretakers of live stock, poultry and fruit, to employes of sleeping cars and express cars, and to linemen of telegraph and telephone companies, to railway mail service employes, postoffice, custom and immigration inspectors, to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks when being transported from the place of injury to their homes and places for treatment, and physicians and nurses attending such persons, and members of commission, and employes of such commission when traveling on official business; provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employes of common carriers and their immediate families, nor prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations. *Acts 1907, sp. sess., no. 99, sec. 1.*

Nothing in this act shall be construed to prevent the carrying, storage or handling by any common carrier of property free or at reduced rates for the United States or for the state of Alabama or for any municipality or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or property shipped by or to its officers or employes for their own exclusive use or consumption or that of their immediate families; or prevent such common carrier from issuing excursion, mileage or commutation tickets, provided such excursion, mileage or commutation tickets shall be obtainable by all persons applying therefor

under like circumstances and conditions. Nor shall anything
2000 in this act be construed to prevent such common carriers from
giving free transportation or reduced rates therefor. And it
shall be lawful for any railroad company to give to or exchange
passes or free transportation with the officers and employes of
other railroads and of express companies and the immediate
members of their families, and for any express company to carry
free or at reduced rates the personal packages or property of its
officers and employes and the officers and employes of railroad
companies, for their own exclusive use or consumption or that of
their immediate families. Upon the shipment of live stock or
other property requiring the care of an attendant, the common
carrier may furnish free transportation including return passage
to the shipper or to some person or persons designated by him
as attendant. *Acts 1909, sp. sess., no. 201, sec. 1(39).*

ARIZONA

No common carrier shall directly or indirectly
issue, give or tender any free ticket, free pass or free or reduced rate
transportation for passengers between points within this state ex-
cept to its employes¹ and their families, its officers, agents, surgeons,
physicians and attorneys at law; to ministers of religion, traveling
secretaries of railroad Young Men's Christian Associations, in-
mates of hospitals and charitable and eleemosynary institutions
and persons exclusively engaged in charitable and eleemosynary
work; to indigent, destitute and homeless persons, and to such
persons when transported by charitable societies or hospitals,
and the necessary agents employed in such transportation; to
inmates of the national homes or state homes for disabled volun-
teer soldiers, and of soldiers' and sailors' homes including those
about to enter and those returning after discharge, and boards
of managers of such homes; to necessary caretakers of live stock,
poultry, milk and fruit; to employes on sleeping cars, express
2000 cars and to linemen of telegraph and telephone corporations; to
railway mail service employes, post-office, custom and immigra-
tion inspectors; to newsboys on trains, baggage agents, witnesses
attending any legal investigation in which the common carrier is
interested, persons injured in wrecks and physicians and nurses
attending such persons, when authorized by commission. Noth-
ing in this act shall be construed to prohibit the interchange of
passes for the officers, agents and employes of common carriers
and their families; nor to prohibit any common carrier from car-

¹ The definitions of the terms "employes" and "families" are identical with the definitions in United States provisions. See footnote, p. 84. *Sess. Laws 1912, ch. 90, sec. 17(a)(3).*

rying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations; and provided, further, that these provisions shall not be construed to prohibit all privileges of passes or franks or the exchange thereof with each other for the officers, agents, employes and their families of all common carriers subject to the provisions of this act. *Sess. Laws 1912, ch. 90, sec. 17(e)(3).*

2001 Provided, further, that with the consent of commission every common carrier may transport free or at reduced rates contractors and their employes, material or supplies for use or engaged in carrying out their contracts with said common carriers for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with each other for an exchange of service. *Same.*

ARKANSAS

2002 Nothing shall be construed as to prevent any person or corporation operating a railroad in this state from issuing or selling at reduced rates emigrant, excursion or commutation tickets, or from carrying free or at reduced rates any property for schools, churches, fairs, expositions or charitable institutions, or for the state, or for the United States, or for any of the United States. *Kirby's Digest 1904, sec. 6805.*

2003 Nothing shall prevent the carriage, storage or hauling free or at reduced rates for any city, county or town government; or the free carriage of destitute or indigent persons, or ministers of the gospel; nor to prevent the railroads from giving free transportation or transportation at reduced rates to the inmates of hospitals, eleemosynary and charitable institutions, and nothing shall be construed to prevent railroads from giving free transportation to any railroad officer, agent or employe, attorney, stockholder or director of the railroad company. *Same, sec. 6806.*

See also par. 1892.

CALIFORNIA

No common carrier shall directly or indirectly issue, give or tender any free ticket, free pass or free or reduced rate transportation for passengers between points within this state, except to its officers, agents, employes,¹ attorneys, physicians and surgeons and members of their families; to ministers

¹ The definitions of the terms "employes" and "families" are identical with the definitions in United States provisions. *See footnote, p. 54. Stats. 1911, 1st ex. sess., ch. 14, sec. 17(e)(3).*

of religion, traveling secretaries of railroad young men's religious associations, or executive officers, organizers or agents of railroad employes mutual benefit associations giving the greater portion of their time to the work of any such association, inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work; and persons and property engaged or employed in educational work or scientific research when permitted by commission; to the executive officers of mercantile or promotion boards or bodies within this state when traveling in the performance of duties affecting the advancement of the business of such boards or bodies, or the development of trade or industry within or without this state, when authorized by commission; to hotel employes of season resort hotels, when authorized by commission; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers, going and returning, of live stock, poultry, milk, fruit and other freight under uniform and non-discriminatory regulations; to employes of sleeping car corporations, express corporations and telegraph and telephone corporations; to railway mail service employes, United States internal revenue officers, post-office inspectors, customs officers and inspectors and immigration inspectors when traveling in the course of their official duty; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 17(a)(3).*

Provided, that no free ticket, free pass or free or reduced rate of transportation shall be issued, given or tendered to any officer, agent or employe of a common carrier who is at the same time a shipper or receiver of freight or an officer, agent or employe of a shipper or receiver of freight, unless such officer, agent or employe devotes substantially his entire time to the service of of such carrier; and provided further that the members of commission, their officers and employes shall be entitled when in the performance of their official duties to free transportation over the lines of all common carriers within this state; and provided, further, that passenger transportation may issue to the propri-

etors and employes of newspapers and magazines and the members of their immediate families in exchange for advertising space in such newspapers or magazines at full rates, subject, however, to such reasonable restrictions as commission may impose. *Same.*

2096 Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced rate transportation for express matter to their officers, agents, employes, attorneys, physicians and surgeons and members of their families, or the interchange of free or reduced rate transportation for passengers or express matter between common carriers, their officers, agents, employes, attorneys, physicians and surgeons and members of their families; provided, that such express matter be for the personal use of the person to or for whom such free or reduced rate transportation is granted, or of his family; nor to prohibit the issue of passes or franks by telegraph or telephone corporations to their officers, agents, employes, attorneys, physicians and surgeons and members of their families, or the exchange of passes or franks between such telegraph and telephone corporations or between such corporations and such common carriers, for their officers, agents, employes, attorneys, physicians and surgeons and members of their families; nor to prevent the carrying out of contracts for free or reduced rate passenger transportation heretofore made, founded upon adequate consideration and lawful when made; nor to prevent a common carrier from transporting, storing or handling free or at reduced rates the household goods and personal effects of its employes, of persons entering or leaving its service and of persons killed or dying while in its service. *Same.*

2097 Every common carrier may transport free or at reduced rates persons or property for the United States, state, county or municipal governments, or for charitable purposes, or to provide relief in cases of general epidemic, pestilence or other calamitous visitation, and property to or from fairs or expositions for exhibit thereat; also contractors and their employes, material or supplies for use or engaged in carrying out their contracts with said carriers, for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with telegraph and telephone corporations for an exchange of service. *Same, sec. 17(a)(4).*

See also par. 1804.

COLORADO

Nothing herein shall prevent the carriage or transporting free or at reduced rates, of the household goods or other personal property of officers, employes, agents in the employ of such common carriers or the interchange of franks for the free transportation of personal property of officers, agents, attorneys and employes¹ of common carriers and their families, or for the United States, the state or any political subdivision thereof, or any municipality thereof, or for charitable purposes, or to and from fairs and expositions for exhibitions thereat. *Laws 1910, sp. sess., ch. 5, sec. 4.*

FLORIDA

Nothing shall prevent common carriers from the carriage, storage or handling of property free or at reduced rates for charitable purposes or to and from fairs or expositions for exhibition thereat, or free carriage of destitute or homeless persons, transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation or round trip passenger tickets, or from giving reduced rates to ministers of religion, or from giving free passes to their own officers or employes, and their immediate families dependent upon them, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes, or free passes or reduced rates to persons in charge of live stock shipped from point of shipment to destination and return, or from issuing second class tickets at a lower rate of fare than for first class tickets, for the holders of which second class tickets so issued only second class accommodations shall be allowed. *Gen. Stats. 1906, sec. 2919.*

Nothing in this act shall be construed to prevent telegraph companies from entering into contracts with common carriers for the exchange of services, nor to affect existing contracts relating thereto, nor to prohibit the privilege of passes or franks or the exchange thereof with each other for the officers, agents, employes and their families of such telegraph companies, and the officers, agents, employes and their families of other common carriers. *Laws 1911, ch. 6187, sec. 3.*

It shall be lawful for common carriers including railroad companies to grant free passage or free tickets to the immediate families of their physicians, surgeons and salaried attorneys at law, dependent upon them, and to exchange free passes with other

¹ The definitions of the terms "employes" and "families" are identical with the definitions in United States provisions. See footnote, p. 84. *Laws 1910, sp. sess., ch. 5, sec. 4.*

common carriers for the immediate families of their physicians, surgeons and salaried attorneys at law, dependent upon them. *Laws 1911, ch. 6229, sec. 1.*

Any common carrier may transport at free or reduced rates material to be used by the state, by any county or by any municipality in this state for roads, streets or bridge purposes. *Laws 1911, ch. 6231, sec. 1.*

ILLINOIS

Nothing shall be so construed as to prevent railroad corporations from issuing commutation, excursion or 1,000-mile tickets, as the same are now issued by such corporations. *Revisal 1909, ch. 114, sec. 126.*

Nothing shall be construed to prohibit any express company or carrier by express from carrying or transporting free or at reduced rates the personal property for the personal use of its officers, agents and employes and their families, nor from exchanging such transportation with other express companies and carriers by express for themselves, their officers, agents and employes and their families. *Same, sec. 370.*

INDIANA

No carrier shall directly or indirectly issue or give any free ticket, free pass or free transportation for passengers, freight or express or for service or accommodation in any sleeping car, parlor car or dining car, except to its employes and members of their families, and the widow and dependent members of the families of deceased employes, its officers, agents, surgeons, physicians and lawyers and members of their families; to ministers of religion, traveling secretaries of Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to aged, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning after discharge, and boards of managers of such homes; to necessary caretakers of live stock, poultry, fruit and vegetables, during the transportation of the same; to employes of sleeping cars, express cars and to linemen and other employes and officers of the telegraph and telephone companies when traveling on business incident to telegraph or telephone construction, maintenance or operation; to railway mail service employes, to newsboys on trains, baggage

agents, witnesses attending any legal investigation in which the carrier is interested, persons injured or killed in railroad accidents, and their attendants and physicians and nurses attending such persons; to contractors and their employes while performing work, under written contract, on the line of the carrier by which the transportation is given, and to publishers of newspapers for printing and advertising performed under written contract; provided, that no such exception shall apply to a public officer of this state, other than those mentioned and notaries public, and provided, that this provision shall not be construed to prohibit the interchange of passes for the officers and agents and employes of such carriers and their families, nor to prohibit any such carrier from carrying passengers, freight or express free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations, nor to prohibit the free carriage by any such carrier of children less than five years old when accompanied by an adult; provided, further, that the provisions of this paragraph shall not apply to any pass legally issued for the year 1907 or any part thereof heretofore issued and given, nor shall this provision apply to parties carried for the purpose of inspecting the carrier's lines with a view to investing in its securities or the improvement of its property, or to policemen or other peace officers while in uniform within their respective towns and cities. *Acts 1907, ch. 241, sec. 13(e).*

See also par. 1745.

IOWA

. Nothing in this chapter shall apply to the transportation, storage or handling of property free or at reduced rates for the United States, this state, or municipal governments by common carriers, nor to charitable purposes, or to and from fairs and expositions for exhibition thereat, nor for the employes thereof or their families, or private property or goods for the family use of such employes, nor from giving reduced rates to the quartermaster general of the state, for the transportation of officers or enlisted men of the Iowa national guard, when
2106 traveling under the orders of the commander in chief, or to ministers of religion, nor from giving free transportation to their own officers and employes, and their families dependent upon them for support, nor to persons in charge of live stock being shipped from point of shipment to destination and return, nor to prevent the officers of any railway company from exchanging passes or tickets with other railroad companies; and nothing in this chapter shall in any way abridge or alter the remedies now existing at

common law or by statute, but the provisions thereof are in addition to such remedies. *Code 1897, sec. 2150.*

2107 The commissioners and their secretary shall be carried free, while performing their duties, on all railroads and trains in the state, and may take with them experts or other agents, who shall be carried free. *Same, sec. 2151.*

2108 No common carrier of passengers shall directly or indirectly issue, furnish or give any free ticket, free pass or free transportation for the carriage or passage of any person within this state except as permitted in the paragraph immediately following. Nor shall any common carrier in the sale of tickets for transportation at reduced rates discriminate between persons purchasing the same, except the persons described in the paragraph immediately following. Nor shall any person accept or use any free ticket, free pass or free transportation¹ except the persons described in said paragraph. *Same, sec. 2157f.*

2109 The persons to whom free tickets, free passes, free transportation and discriminating reduced rates may be issued, furnished or given are the following, to wit: (a) the officers, agents, employes, attorneys, physicians and surgeons of such common carriers of passengers whose chief and principal occupation is to render service to common carriers of passengers; (b) to the families of the persons included in subdivision "a" hereof; (c) the general officers of any such common carrier; (d) employes on sleeping cars, express cars and linemen of telegraph and telephone companies, railway mail service employes, post-office, customs and immigration inspectors, newsboys on trains, baggage agents; (e) persons injured in wrecks and physicians and nurses attending such persons; (f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence or other calamitous visitation; (g) necessary caretakers of live stock, vegetables and fruit, including return transportation to forwarding agent; (h) the officers, agents or regularly accredited representatives of labor organizations, composed wholly of employes of railway companies; (i) inmates of homes for the reform or rescue of the vicious or unfortunate, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents of such homes; (j) superannuated and pensioned employes and mem-

¹ The words "free ticket," "free pass," "free transportation" as used in this act shall include any ticket, pass, contract, permit or transportation issued, furnished or given to any person by any common carrier of passengers for carriage or passage for any other consideration than money paid in the usual way at the rate, fare or charge open to all who desire to purchase. *Code 1897, sec. 2157f.*

bers of their families and widows of employees who died while in the service of such common carriers; (b) employees crippled and disabled in the service of a common carrier of passengers; (l) policemen and firemen of any city wearing the insignia of their office within the limits of such city; (m) ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; (n) indigent, destitute and homeless persons while being transported by charitable societies or hospitals in such transportation; (o) school children to and from public or parochial schools; (p) the state fish and game warden and his car and necessary assistants therewith, when engaged in the performance of official duties. *Same, sec. 2157g.*

2119 In any prosecution under this act if it is claimed that a free ticket, free pass or free transportation was wrongfully issued or given to physicians or surgeons, attorneys, agents, employees, it shall be incumbent upon the defendant to prove the character of the service rendered or to be rendered. The provisions of this act shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes or free transportation may be furnished or given under the provisions of this section. Nothing in this act shall operate to repeal the provisions of section 2150 of the code so far as said section refers to the members of the national guard, nor shall it operate to repeal section 2151 of the code. Nothing in this act shall be construed to invalidate any existing contract between a street railway company and a city where a condition of a franchise grant requires the furnishing of transportation to policemen, firemen and city officers while in the performance of official duties. *Same.*

2121 No person within the purview of this act shall be privileged from testifying in relation to anything herein prohibited, but no person having so testified shall be liable to any prosecution or punishment for any offense concerning which he was required to give his testimony. *Same, sec. 2157(h).*

2122 Any common carrier, its officer, agent or representative violating any of the provisions of this act shall be fined in a sum not less than \$100 and not more than \$1,000 for each offense, or in the discretion of the court shall be imprisoned in the county jail for not less than 30 and not more than 90 days; and any person other than the persons excepted in the preceding paragraph who accepts or uses any free ticket, free pass or free transportation

for carriage or passage within this state shall be subject to a like penalty. *Same, sec. 2157i.*

KANSAS

Any member of commission while acting in performance of his official duties together with such attorney for commission, secretary, stenographers, accountant, expert or other agents whose services commission may deem to be important in the discharge of their duties, shall have the right of passing at all times over all the roads and on all railroad trains or any part thereof in this state free of charge. It shall be unlawful for any commissioner, attorney for commission, secretary or employe of
2118 commission to receive or apply for any free transportation or reduced rates for transportation, from any railroad company or other common carriers, their agents, servants or employes for any other person, during the term of his office or employment; and any person violating the provisions hereof shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$50 nor more than \$1,000; and upon conviction of any commissioner of such violation the governor shall declare his office vacant and shall appoint a successor thereto. *Gen. Stats. 1909, sec. 7169.*

Nothing shall prevent the carriage, storage or handling of freight free or at reduced rates for the state or for city, county or town government, or for charitable purposes, or to and from fairs and expositions, for exhibition thereof, or the free carriage of destitute, indigent persons, or the issuance of mileage or
2114 excursion passenger tickets; nor to prevent railroads from giving special rates or free transportation to the officers and members of the Kansas national guard, to ministers of religion, inmates of hospitals, eleemosynary or charitable institutions, or to any railroad officers, agents, employes, attorneys, witnesses attending court or before commission on behalf of such railroad company, stockholders or directors. *Same, sec. 7177.*

It shall be unlawful for any railroad company to issue, give or offer to issue or give any free pass, ticket or transportation in any form to passengers for use upon the lines within this state, except its officers and directors, and employes¹ and their families;²

¹ The word "employe" as used in this act shall be construed to include all persons who devote their principal time, skill and energy to the service of the railroad company by which they are employed, and who receive a stated and remunerative salary therefor, and to exclude all others who do not depend primarily upon such employment for a livelihood, except one local attorney, physician and surgeon in any one county, through or in which said railroad issuing such pass has a line of road. *Gen. Stats. 1909, sec. 7237.*

² The word "family" as used in this act shall be construed to include the employe, his wife and minor children, immediate members of his household and dependent on him for support, and to exclude all others. *Same, sec. 7238.*

the employees of express, telegraph or sleeping car companies and their families; a representative from each of the labor organizations of employees of the railway companies; railway employees incapacitated by reason of disease or injury incurred or received in the employ of the company issuing such pass; ex-railway employees who have been engaged in the employ of a railway company continuously for 15 years and placed on the retired list; also messengers and clerks in the railway mail service; news agents

2115 while selling papers, books, magazines, fruit, confectionery, etc., on the train; members of commission and their attorney, together with all other officers and employees of commission; persons injured in wrecks or by accidents, and doctors, nurses and necessary attendants in caring for such injured persons, to be used only in visiting employees and their families or in accompanying employees to railroad hospitals; caretakers of stock, poultry or fruit in carload lots, to be used exclusively in accompanying the same to destination and returning therefrom; sheriff and chief of police in cities of the first class; indigent, destitute or homeless persons whose dependent condition is certified to by mayor, commissioner of the poor or the chairman of the board of county commissioners, and it shall be unlawful for any person other than the above excepted persons to solicit, accept or use any such free pass, ticket or transportation. *Same, sec. 7255.*

Any officer, agent or employee of any railroad company who issues, gives or delivers or offers to issue or give any free pass, ticket or transportation to any person not authorized to accept and use the same by this act shall be deemed guilty of a misdemeanor, and punished by a fine of not more than \$100, or by imprisonment in the county jail not more than 30 days, or by

2116 both such fine and imprisonment; and any person not authorized by this act to accept and use such pass, ticket or transportation who solicits for himself or others or accepts or uses the same, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than \$100, or by imprisonment in the county jail not more than 30 days, or by both such fine and imprisonment. *Same, sec. 7256.*

The terms of this act shall not be construed as prohibiting the issuance, acceptance or use of free passes, tickets or transportation during the prevalence of an epidemic, pestilence or catastrophe, when necessary to afford relief or to mitigate the evil effects of such calamitous visitation. *Same, sec. 7259.*

2117

The provisions of this act shall not be construed as pro-

hibiting excursion rates open to the public generally, reduced fare to ministers of the gospel and those giving their entire time to religious benevolence or charitable work, or to the inmates of soldiers' homes, state or national, including those about to enter and those returning home after their discharge, and members in good standing in the Grand Army of the Republic; provided, however, this act shall not affect any rate now provided by law for the transportation of members of the Kansas national guard. *Same, sec. 7260.*

Rates different from those specified in the printed schedule or classification of rates may be charged by any public utility, street or interurban railway, by agreement with the customer, in cases of charity, emergency, festivity or public entertainment; provided, that any utility governed by the provisions of this act may grant to the officers, employes and agents of such utilities free or reduced rates or service upon like terms and in the same manner as is now provided by law relating to common carriers. *Laws 1911, ch. 238, sec. 12.*

LOUISIANA Nothing herein shall prevent the railroad, express, telegraph, telephone, steamboat or other water craft or other companies from serving free of cost or at reduced rates the state, or any city, parish or town government, or any charitable purpose, or any order or exposition, or any destitute or indigent person, or the issuance of mileage or excursion tickets, nor to prevent railroads, steamboat or other water craft from giving free transportation to ministers of religion or inmates of hospitals or to railroad officers, agents, employes, attorneys, stockholders or directors unless otherwise provided by this constitution. *Const., art. 287.*

MAINE Railroad companies may sell excursion, return or other special tickets at less than the regular rates of fare, to be used only as provided on the ticket. *Rev. Stats. 1903, ch. 52, sec. 2.*

This statute shall not apply to the issuance and interchange of passes, for passes for officers, agents, employes, surgeons, physicians and attorneys of railroads and other carriers, and their families, or to police officers, or to members of fire departments in course of duty, but such officer, agent or person, if holding or receiving free or reduced rate transportation, shall not receive from the state or municipality any mileage or pay for personal transportation as such state or county or municipal official over

the steam or other railways over which he has free or reduced rate transportation. *Pub. Laws 1907, ch. 153, sec. 2, as amended by Pub. Laws 1911, ch. 43, sec. 2.*

Any person convicted of a violation of any of the provisions
2123 of this act shall be punished by a fine not less than \$100 nor more than \$500. *Same, sec. 3.*

MASSACHUSETTS Every railroad corporation which has a terminus in Boston shall upon the application of 200 or more persons therefor furnish on each week day a morning train in and an evening train out for distances not exceeding 15 miles, or suitable
2124 cars attached to other trains, and reaching and leaving Boston about six o'clock in the forenoon and afternoon, or at such hours as may be fixed by commission; and for such trains, shall furnish season tickets good once a day each way for six days in the week, at a rate not exceeding for yearly tickets \$3 a mile and for quarterly tickets \$1 a mile. *Acts 1906, ch. 463, pt. ii, sec. 187.*

Every railroad corporation which has a terminus in Boston shall furnish such number of workingmen's trains, not less than two each way, as commission upon a petition for such trains filed with it shall in each case order. Such trains shall arrive at Boston between six and half past seven o'clock in the morning and leave Boston between the same hours in the evening and special
2125 cars may be provided therefor. Season tickets good once a day each way for six days in the week shall be furnished for such trains at a rate not exceeding for yearly tickets \$3 a mile and for quarterly tickets \$1 a mile. Trip tickets now issued shall be good on the two trains authorized by this section and shall not be withdrawn when the rate therefor be increased without the consent of commission. *Same, sec. 188.*

A street railway company may provide cars for special service, and may make special rates therefor; and may make special
2126 rates for workingmen and working women on week days between the hours of five and seven in the morning and five and seven in the evening, and for children attending school. *Same, pt. iii, sec. 98.*

The rates of fare charged by street or elevated railway companies for the transportation of pupils of the public schools or public evening schools or private schools between a given point from or to which it is necessary for them to ride in traveling to or from the school houses in which they attend school and their
2127 homes, whether such school houses are located in the city or town in which the pupils reside or in another city or town, shall not

exceed one-half the regular fare charged by such street or elevated railway company for the transportation of other passengers between said points, and tickets for the transportation of pupils as aforesaid, good during the days or evenings on which said schools are in session, shall be sold by said companies in lots of ten each. A railway company which violates the provisions of this section shall forfeit \$25 for each offense. *Acts 1908, ch. 530, sec. 1.*

MICHIGAN

Any railroad corporation may make contracts for the conveyance of passengers upon designated trains for a specific distance at fixed times at such reduced rates of fare as the parties may agree upon. Tickets may be issued for such passengers upon which shall be plainly printed the terms upon which they may be used. Such tickets shall not entitle the holder to ride upon any train not therein designated or at any time beyond that stipulated therein. *Comp. Laws 1897, sec. 5255.*

No common carrier shall directly or indirectly issue or give any free ticket, free pass or free transportation for passengers except to its employes or their families, its officers, agents, surgeons, physicians or attorneys at law and members of their families; or to former railroad employes and members of their families, when such employes have become disabled in the railway service, or retired upon pensions, and to members of the families of deceased employes; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, persons engaged exclusively in charitable and eleemosynary work, to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers' and sailors' homes, including those about to enter and those returning home after discharge, boards of managers of such homes; to necessary caretakers of live stock, poultry, fruit and vegetables; to employes on sleeping cars and express cars; to linemen of telegraph and telephone companies and others engaged in the care and operation of telegraph and telephone lines; to railroad postal employes, postoffice, customs and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured or killed in accidents and members of the families of the same, and physicians and nurses attending such persons,

and dependent relatives of injured or deceased employes, and such other persons as commission may from time to time by special order designate; provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents, attorneys and employes of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or otherwise calamitous visitation; provided, further, that nothing shall be construed to prohibit the exchange of mileage for advertising in publications of general circulation. *Pub. Acts 1909, no. 300, sec. 5(a).*

Any common carrier wilfully violating this provision shall be deemed guilty of a misdemeanor, and for such offense on conviction shall pay to the state a penalty of not less than \$100 nor more than \$500, and any person other than persons excepted in this provision who uses any such free ticket, free pass or free transportation, shall be subject to a like penalty. *Same.*

Nothing herein shall prevent the carriage, storage or handling of freight free or at reduced rates for the United States, the state or any political subdivision thereof, or any municipality thereof, or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or household goods, or other personal property of railroad employes, or the interchange of franks for the free transportation of personal property of the officers, agents, attorneys and employes of common carriers and their families; nor to prohibit any common carrier from carrying property free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations, or the issuance of mileage, commutation, excursion passengers' or party tickets; provided that such tickets shall be obtainable by all persons applying therefor under like circumstances and conditions without discrimination. *Same, sec. 5(b).*

Nothing in this act shall be construed to prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the provisions of this act as to the printing and the filing of the same; provided, all such rates shall be under the supervision and regulation of commission. *Same, sec. 11.*

In time of war or threatened war preference and precedence shall upon the demand of the governor of the state be given over all other traffic to the transportation of troops and material of

war and carriers shall adopt every means within their control and facilitate and expedite the military traffic. *Pub. Acts 1911, no. 139, sec. 10(h).*

MINNESOTA

Nothing shall prevent the carriage, storage or handling of property free, or at reduced rates for the United States, state or for any municipal corporation thereof, or for charitable purposes, or for exhibition at fairs or expositions, or of stock for breeding purposes; or the issuance of mileage, excursion
2124 or commutation passenger tickets at rates equal for all or giving such reduced rates to ministers of religion, sisters of charity, missionaries, students of any educational or inmates of any charitable institution; nor the free transportation of passengers when allowed by law. *Rev. Laws 1905, sec. 2010.*

Nothing in this act shall apply to the carriage, storage or handling by any common carrier of property free or at reduced rates for the United States, or the state of Minnesota, or for any
2125 municipal government or corporation within the state, or for any charity, religious society or charitable purpose, or to or from fairs or expositions, or for stock breeding purposes, or for carrying seed grain. *Laws 1905, ch. 176, sec. 4.*

From and after January 1, 1908, it shall be unlawful for any person, association, copartnership or corporation or any representative thereof, to offer, give or in any manner furnish to any person either for himself or another, any free pass or frank or any special privilege or reduction in rate withheld from any other person for the traveling accommodation or transportation of any person or property or the transmission of any message or communication except to persons included within the classes hereinafter designated and limited, and it shall also be unlawful for any person not included within the classes hereinafter excepted and limited to solicit or receive either for himself or another from any person, association, copartnership or corporation, or use in any manner or for any purpose any free pass or frank or special privilege withheld from any person for the traveling accommodation or transportation of any person or property or the transmission of any message or communication; provided, however, that nothing contained in this act shall be construed to prohibit or to make unlawful the issuing or giving of any such free ticket, free pass or free transportation to any person or persons within the classes hereinafter excepted or limited or the acceptance or use of the same by persons within such classes, that is to say, officers, bona fide agents, surgeons, physicians, attorneys and

2156 employees of such railroad or other companies or persons affected by this act, and dependent members of their families, the duly elected representatives of railroad labor organizations, children under 12 years of age, ministers of religion, secretaries of Young Men's Christian Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals or by public charity, and necessary agents employed in such transportation, inmates of national homes or state homes for disabled volunteer soldiers, inmates of soldiers' and sailors' homes, including those entering and returning from such homes, and boards of managers of such homes, postoffice, customs and immigration inspectors; witnesses for such railroad companies attending any legal investigation in which said company is interested; officials and linemen of telegraph and telephone companies; ex-employees retired from service on account of age or because of disability sustained while in the service of said railroad company, and the dependent members of their families, or the widows or dependent children of employees killed while in the service of such railroad company; necessary caretakers of live stock, poultry, vegetables and fruit including transportation to and from the point of delivery; employees on sleeping and express cars, railway mail service employees, newsboys on trains, baggage agents and persons injured in wrecks and physicians and nurses attending them; provided, that one trip pass for a discharged employee and his family may be issued for use within 30 days of such discharge. *Laws 1907, ch. 449, sec. 1.*

2157 Provided, further, that the provisions of this act shall not be construed to prohibit and make unlawful the interchange of passes and express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employees and the dependent members of their families, of any person or company affected by this act, nor to prohibit any company affected by this act from doing any of the things prohibited hereby free, with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation. *Same.*

2158 Provided, further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange of passenger transportation and message service between such railroad companies and telegraph companies; and provided, further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange between railroad, express, tele-

graph and telephone companies of the transportation of persons and property and the transmission of messages. *Same.*

2120 Provided, further, that no free transportation shall be issued or given to any person when such person is a member of, employed by or in any way connected with any political committee or candidate for or incumbent of any office or position under the constitution and laws of this state except as herein provided. *Same.*

2140 Any person, corporation or company or any officer or agent of such corporation or company violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$100 or by imprisonment in the county jail for a period not exceeding 90 days. *Same, sec. 3.*

2141 It shall be lawful for any railroad or transportation company operating in this state, to transport, handle or store free or at reduced rates for the United States, the state or for any municipal corporation thereof any stone, stonedust, gravel, sand or any other material to be used in building, improving or repairing public highways by any of the said entities or corporations herein mentioned. *Laws 1911, ch. 192, sec. 1.*

See also par. 2008.

MISSISSIPPI It is unlawful for any railroad to grant free passes or tickets, or passes or tickets at reduced rates to any person, or to transport or suffer any person to be transported free of charge or at reduced rates not applicable to all persons alike; but this shall not prevent the transportation free of charge or at reduced rates of persons and freight for a scientific, religious or benevolent purpose, or for an industrial exhibition, fair or association of a public nature, nor shall such transportation of immigrants, persons traveling with a view of locating immigrants and dependent and unfortunate persons; nor shall it prevent the sale and issuance of mileage, excursion and commutation tickets, 2142 nor the free carriage of the railroad's own officers and all persons bona fide in its employment at a salary or regular compensation, nor the exchange of passes or tickets with other railroads for their officers and employes, nor its free carriage of the class of persons known as railroad employes, all persons injured in railroad accidents, and all physicians and nurses attendant upon injured persons; nor the carriage free or at reduced rates of the members of families of officers and employes of the railroad. However, these exceptions are allowed on the condition that the railroad shall

report annually to commission all free passes granted, by whom and for what reason granted. *Code 1906, sec. 4844.*

See also par. 1828.

MISSOURI Excursion or commutation tickets may be issued at special rates. *Rev. Stats. 1909, sec. 3174.*

See also par. 1915.

MONTANA Excursion or commutation tickets may be issued and sold at special rates provided such rates are the same to all persons. *Const., art. xv, sec. 7.*

Nothing in any of the provisions of law of the state shall be construed to prevent or shall prevent the carriage or storage or handling of property free or at reduced rates for the government of the United States or of the state of Montana, or the owner or owners of any fish hatchery within the state, or of any anglers' association organized and existing therein, whenever such property is being used for the exclusive purpose of stocking or planting with fish or fish eggs the waters within the state of Montana; and nothing herein shall be construed to prevent or shall prevent the issuing of free transportation to, or the free carriage of, or selling tickets at reduced rates to, any and all persons while actually engaged in transporting fish or fish eggs for stocking or planting the waters of this state with such fish or fish eggs. *Laws 1911, ch. 108, sec. 1.*

No common carrier of passengers shall directly or indirectly issue, furnish or give any free ticket, free pass or free transportation¹ for the carriage or passage of any person within this state except as permitted in section two of this act. Nor shall any common carrier in the sale of tickets for transportation at reduced rates discriminate between persons purchasing the same, except the persons described in section two of this act. *Laws 1911, ch. 136, sec. 1.*

The persons to whom free tickets, free pass, free transportation and discriminating reduced rates may be issued, furnished or given are the following, to wit: (a) the officers, agents, employes, attorneys, physicians and surgeons of such common carriers of passengers; (b) to the families of the persons included in subdivision "a" thereof; (c) the general officers of any such common carrier; (d) employes of sleeping car and express car companies, and linemen of telegraph and telephone companies, railway mail service employes, postoffice inspectors, newsboys on trains, bag-

¹ The definitions of the words "free ticket," "free pass," and "free transportation" are identical with the definitions in Iowa provisions. *See footnote, p. 94. Laws 1911, ch. 136, sec. 1.*

gage agents; (e) persons injured in wrecks and physicians and nurses attending such persons; (f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence or other calamitous visitation; (g) necessary caretakers of live stock, vegetables and fruit, including return
2147 transportation to forwarding station; (h) the officers, agents or regularly accredited representatives of labor organizations composed wholly of employes of railway companies; (i) inmates of homes for the reform or rescue of the unfortunate or vicious, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents of such homes; (j) superannuated and pensioned employes and members of their families and widows of such members; (k) employes crippled and disabled in the service of the common carrier of passengers; (l) policemen and firemen of any city wearing the insignia of their office within the limits of such city; (m) ministers of religion, newspaper employes in exchange for advertising, traveling secretaries of Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; (n) indigent, destitute and homeless persons while being transported by charitable societies or hospitals, and necessary agents, employed in such transportation; (o) school children to and from public or parochial schools; (p) commission and its necessary employes, while traveling on official duty. The provisions of this act shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes or free transportation may be furnished or given under the provisions of this section. Nothing in this act shall be construed to invalidate any existing contract between a street railway company and a city where a condition of a franchise grant requires the furnishing of transportation to policemen, firemen and officers while in the performance of official duties. *Same, sec. 2.*

Any common carrier, its officers or agents or representatives violating any of the provisions of this act shall be fined in a sum of not less than \$10 nor more than \$300 for each offense, and
2148 any person other than the persons excepted in section two of this act who accepts or uses any free tickets, free pass or free transportation for carriage or passage within this state, shall be subject to a like penalty. *Same, sec. 3.*

See also par. 1833.

NEBRASKA

Nothing in this act shall prevent the carriage, storage or handling of freight free or at reduced rates for the state or for any city, county or town government or for charitable purposes or to and from fairs and expositions for exhibition thereat. *Cobbey's Annot. Stats. 1909, sec. 10662(g).*

It shall be unlawful for any railroad company or corporation owning or operating any line or lines of railroad in the state, or any officer or agent of any such company or corporation to directly or indirectly issue or give to any person or persons any free ticket, free pass or free transportation in any form for the transportation of any passenger or passengers, on or over any line or lines of railroad or any part thereof so owned or operated by it in the state except to persons within the classes hereinafter designated and limited; and it shall also be unlawful for any person or persons not included within the classes hereinafter designated and limited to accept and use any such free ticket, free pass or free transportation in any form for traveling on and over any line or lines of railroad or any part thereof in the state. Provided, however, that nothing contained in this act shall be construed to prohibit or make unlawful the issuing or giving of any such free ticket, free pass or free transportation to any person or persons within the classes herein designated and limited, or the acceptance or use of the same by persons within such classes, viz.: officers, agents, bona fide employees the major portion of whose time is devoted to the service of such railroad company and the dependent members of their immediate families; children under seven years of age; officials and linemen of telegraph companies; ex-employees retired from service on account of age, or to their widows, or because of disability of employees sustained while in the service of said railroad company and the dependent members of their immediate families, or the widows or dependent children of all employees, who die while in the service of such railroad company, or to transport the corpse of an employe dying in the service; necessary caretakers of live stock, poultry, vegetables and fruit, including transportation to and from the point of delivery; employees of sleeping car companies, and express companies, and railway mail service employees, newsboys on trains, baggage agents and persons injured in wrecks and physicians and nurses attending them. Provided, that one trip pass for a discharged employe and his family may be issued for use within 30 days of such discharge. Provided, further, that the provisions of this act shall not be construed to prohibit and make unlawful

the interchange of passes for the officers, agents and employes and the dependent members of their immediate families of other railroad companies; nor to prohibit any railroad company from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation. *Same, sec. 10664.*

Any railroad company or corporation or any person or persons violating any of the provisions of this act shall be deemed
2181 guilty of a misdemeanor, and for each offense on conviction thereof shall pay a fine of not less than \$100 nor more than \$1,000. *Same, sec. 10665.*

See also pars. 1762, 1763, 1920.

NEVADA

Nothing in this act shall be construed to prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers of a like kind of traffic under similar circumstances and conditions,
2182 and shall be subject to the provisions of this act as to the printing and filing of the same; provided all such rates shall be under the supervision and regulation of commission. *Stats. 1907, ch. 44, sec. 6.*

Nothing herein shall prevent the carriage, storage or handling of freight free or at reduced rates for the United States, the state or any political subdivision thereof, or any municipality thereof, or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or household goods and supplies, the property of employes, or the issuance of mileage, commutation or excursion passengers' tickets; provided, that the same shall be obtainable by any persons applying therefor, without discrimination, or of party tickets; provided that the same shall be obtainable by any person applying therefor under like
2286 circumstances and conditions. This act shall not be construed as preventing railroads from giving free transportation or reduced rates therefor to any minister of the gospel, constable in any county of the state, officer or agent of incorporated colleges, college professors, school teachers, students attending institutions of learning, regular agents of charitable societies when traveling upon the business of the society only, destitute or homeless persons, railroad officers, attorneys, directors, employes or members of their families, or bona fide ex-railroad employes of any steam or electric railroad in search of employment, or to prevent the exchange of passes with officers, attorneys or employes

of other railroads and members of their families. *Stats. 1907, ch. 44, sec. 8, as amended by Stats. 1911, ch. 191, sec. 1.*

2184 Upon any shipment of live stock or other property of such nature as to require the care of an attendant the railroad may furnish to the shipper or some person or persons designated by him, free transportation for such attendant, including return pas-
sage to the point at which the shipment originated; provided, that there shall be no discrimination in reference thereto between such shippers, and commission shall have power to prescribe regulations in relation thereto. *Same, sec. 8(a), as amended by Stats. 1911, ch. 191, sec. 1.*

NEW HAMPSHIRE Season and mileage tickets may be sold at reduced rates; and special rates may be established for passengers
2186 who attend agricultural fairs and public meetings, for parties of pleasure, and for military and other organized bodies. *Pub. Stats., ch. 160, sec. 4.*

No person shall ride upon a car or train who has not paid or does not pay on demand the established rate except the following: Stockholders going to and returning from stockholders' meetings; the directors, superintendent, treasurer and clerk of the proprie-
2186 tors of other railroads with which their road has connection; persons in charge of mails and expresses; and poor persons and persons in misfortune who are unable to pay the fare, and others to whom passes have been granted by the proper officers. *Same, sec. 5.*

No carrier¹ shall directly or indirectly issue or give any free ticket, free pass or free transportation for passengers between points within the state except to its officers and employes and their families, to its surgeons, physicians and attorneys at law,² to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers'
2187 and sailors' homes, including those about to enter and those returning home after discharge; to the officers and executive

¹ The word "carrier" as used in this act shall be construed to mean all common carriers of passengers including railroads. *Laws 1909, ch. 126, sec. 1(1).*

² The words "employes," "surgeons," "physicians" and "attorneys at law" as used in this act shall be construed to mean only such persons of each of such class as are in the employment of the carrier in the transaction of its business. The word "employee" as used in this act shall not be construed so as to include political legislative agents. *Same, sec. 1(2).*

board of the New Hampshire Veteran Association for the exclusive purpose of arranging for its annual reunions; to necessary caretakers of live stock, poultry, fruit and perishable property; to employes on parlor, sleeping, dining and express cars, and to linemen and other employes of telegraph and telephone companies; to railway mail service employes, postoffice, customs and immigration inspectors; to policemen and firemen while in discharge of their duties; to newsboys and venders on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in wrecks and physicians and nurses attending such persons; provided, that the foregoing provisions shall not be construed to prohibit the issue or giving of passes for the officers and employes of other railroads or common carriers; nor to prohibit any carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation. *Laws 1909, ch. 126, sec. 2.*

2150 No common carrier shall sell or furnish transportation to any newspaper publisher, his agents or employes at any special or reduced rates for services rendered or to be rendered, and all contracts for advertising between newspaper publishers and common carriers shall be made at regular rates, and all payments under such contracts shall be made in full, and such contracts shall be open to inspection by the attorney general at all times. *Same, sec. 3.*

2150 No carrier shall directly or indirectly issue or give transportation to any person at a special or reduced rate or otherwise with the purpose of evading the provisions of the preceding sections. *Same.*

2160 Any carrier or any officer or agent of a carrier violating any of the foregoing provisions shall on conviction be fined not less than \$100 nor more than \$1,000. Any person other than the persons excepted from the provisions of the foregoing section, who uses any such ticket, free pass, free, special or reduced fare transportation shall upon conviction be fined not less than \$100 nor more than \$1,000. *Same, sec. 6.*

2161 No person shall be excused from testifying in a proceeding instituted against another person or corporation under the foregoing sections for the reason that he may thereby criminate himself; but no testimony so given by him shall be used directly or indirectly as evidence against him in any prosecution, nor shall he be prosecuted thereafter for any offense so disclosed by him. *Same, sec. 7.*

NEW JERSEY

Nothing in this act shall be construed to prevent the issue by any steam railroad, street railway, traction, canal, express, telephone or telegraph companies or other common carriers of free passes or franks to their employes, officers, ~~and~~ agents, surgeons, physicians, attorneys at law and their families, and the interchange between said public utilities and common carriers of passes or franks for their employes, officers, agents, surgeons, physicians, attorneys at law and their families. *Laws 1911, ch. 195, sec. 41.*

NEW MEXICO

See par. 1927.

NEW YORK

No common carrier shall directly or indirectly issue or give any free ticket, free pass or free transportation for passengers or property between points within this state except to its officers, employes, agents, pensioners, surgeons, physicians, attorneys at law and their families; to ministers of religion, officers and employes of railroad Young Men's Christian Associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; and to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals and the necessary agents employed in such transportation; ~~and~~ to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and to boards of managers of such homes; to necessary caretakers of property in transit; to employes of sleeping car companies, express companies, telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employes, postoffice, customs and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation or proceeding in which the common carrier is interested; persons injured in accidents or wrecks and physicians and nurses attending such persons; to the carriage free or at reduced rates of persons or property for the United States, state or municipal government, or of property to or from fairs and expositions for exhibit thereat. *Laws 1910, ch. 480, sec. 33(2).*

Nothing in this chapter shall be construed to prohibit the interchange of free or reduced transportation between common carriers of or for their officers, agents, employes, attorneys and surgeons, and their families, nor to prohibit any common carrier from carrying passengers or property free, with the object of providing relief in cases of epidemic, general pestilence or other ca-

laminous visitation; nor to prohibit any common carrier from transporting persons or property as incident to or connected with contracts for construction, operation or maintenance, and to the extent only that such free transportation is provided for in the contract for such work; nor to prevent any common carrier from transporting children under five years of age free. Provided, further, that nothing in this chapter shall prevent the issuance of mileage, excursion, school or family commutation, commutation passenger tickets, half-fare tickets for the transportation of children under 12 years of age, or any other form of reduced passenger tickets, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 miles or more. Not shall anything in this chapter prevent the issuance of passenger transportation in exchange for advertising space in newspapers at full rates. *Same, sec. 33(3), as amended by Laws 1911, ch. 540.*

Nothing in this section or any other provision of law shall be deemed to limit the power of commission to require the sale of, and upon investigation prescribe reasonable and just fares as the maximum to be charged for, commutation, school or family commutation, mileage tickets over railroads or street railroads, joint interchangeable mileage tickets, round trip excursion tickets, or any other form of reduced rate passenger tickets over such railroads or street railroads; provided, that all special round trip excursion tickets, the sale of which is limited to less than 30 days, except round trip excursion tickets to the state fair and return during the holding thereof, shall be deemed exempt from such regulation by commission. *Same, sec. 33(4), as amended by Laws 1911, ch. 540.*

No telegraph or telephone corporation shall directly or indirectly give any free or reduced service or any free pass or frank for the transmission of messages by either telephone or telegraph between points within the state except to its officers, employes, agents, pensioners, surgeons, physicians, attorneys at law and their families; to persons or corporations exclusively engaged in charitable and eleemosynary work and ministers of religions; to officers and employes of other telegraph, telephone, railroad and street railroad corporations. But this subdivision shall not apply to state, municipal or federal contracts. *Same, sec. 92(3), as amended by Laws 1911, ch. 124.*

NORTH CAROLINA Nothing in this chapter shall prevent the carriage, storage or handling of property free or at reduced rates

for the United States, state or municipal governments or for charitable or educational purposes; or for any corporation or association incorporated for the preservation and adornment of any historic spot, or to the employees or officers of such company or association while traveling in the performance of their duties, provided, they shall not travel further than ten miles one way on any one trip free of charge, or to or from fairs or exhibitions for exhibition thereat; or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the free transportation of persons traveling in the interest of orphan asylums or homes for the aged and infirm, or any department thereof, or ex-confederate soldiers attending annual reunions, or the issuance of mileage excursion or commutation passenger tickets; or to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of national homes or state homes for disabled volunteer soldiers, or of soldiers' and sailors' orphan homes, including those about to enter and those returning
2167 home after discharge under arrangements with the board of managers of said homes; or furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a common carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier, and the families of those persons named; also the families of persons killed and the widows during widowhood and minor children during minority of persons who died while in the service of any such common carrier; or to prevent common carriers from giving free carriage to their own officers and employees and members of their families, or to prevent the principal officers of any common carrier from exchanging passes, franks or tickets with other common carriers for their officers or employees and members of their families. Nothing in this section shall be construed to prevent or restrict transportation companies from contracting with newspapers for advertising space in exchange for transportation over their lines to such an extent as may be agreed upon between the two parties for said consideration. The commissioners and their clerks shall be transported free of charge over the railroads and over transportation lines which are under the supervision of commission; and when traveling on official business they may take with them experts or other agents whose

service they may deem temporarily of public importance. *Pell's Revisal 1908, sec. 1105.*

Any person or persons except those permitted by law who accept free transportation shall be guilty of a misdemeanor and on conviction shall be fined or imprisoned or both in the discretion of the court; and any railroad or its employes or agents
2100 giving free transportation of any kind whatsoever except that permitted by law, shall be guilty of a misdemeanor and on conviction shall be fined not less than \$500 or more than \$2,000 for each offense. *Acts 1908, ch. 144, sec. 4.*

See also par. 837.

NORTH DAKOTA Nothing herein contained shall be so construed as to prevent railroad corporations from issuing commuta-
2100 tion, excursion or 1,000 mile tickets provided the same are issued alike to all applying therefor. *Rev. Codes 1905, sec. 4369.*

Nothing in this article shall apply to the carriage, storage or handling of property free or at reduced rates for the United States or this state, or municipal governments or for charitable purposes or to and from fairs and expositions for exhibition thereat, or for the employes of such common carriers or their families, or private property or goods for the family use of employes of such common carriers, or the issuance of mileage, excursion or com-
2170 mutation passenger tickets. Nothing in this article shall be construed to prohibit any railroad, railroad corporation or common carrier from giving reduced passenger rates to ministers of religion, or to prevent railroads from giving free carriage to their own officers and employes and their families or others and to persons in charge of live stock being shipped from the point of shipment to destination and return; and nothing in this article contained shall in any way abridge or alter the remedies now existing at common law, or by statute, but the provisions of this article are in addition to such remedies; provided that no pending litigation shall in any way be affected by this article. *Same, sec. 4374.*

No common carrier shall directly or indirectly issue or give any free ticket, free pass or free transportation for passengers except to its employes and their families,¹ its officers, bona fide agents, surgeons, physicians and attorneys at law on the pay roll of the common carrier; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and

¹ The definitions of the terms "employes" and "families" are identical with the definitions in United States provisions. *See footnote, p. 84. Laws 1911, ch. 138, sec. 1.*

persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals and the necessary agents employed in such transportation; to inmates of national homes or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes including those about to enter and those returning home after discharge, to necessary caretakers of live stock, poultry, milk, fruit and vegetables; to employes on sleeping cars, express cars and to linemen of telegraph and telephone companies if operated in connection with said common carriers; to railway mail service employes, postoffice, customs and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested; to persons injured in wrecks and
2171 physicians and nurses attending such persons. Provided, further, that the provisions of this act shall not be construed to prohibit or make unlawful the transportation of city policemen, firemen, mail carriers and postmen on the street railways in the cities of this state. Provided, further, that the provisions of this act shall not be construed to make unlawful the granting of reduced home seekers' rates or the granting of round trip excursion rates to any class of persons, provided, that all persons of that class shall be allowed equal privileges in respect to such home seekers' or excursion rates, but excursion rates shall not be allowed any persons or representatives of any political party to enable them to attend any political meeting either as delegates or otherwise. Provided, further, that the provisions of this act shall not be construed to make unlawful the granting of free transportation to persons engaged in the state geological survey, farmers' institute lecturers, and persons rendering service on "good farming special trains." Provided, further, that this provision shall not be construed to prohibit the interchange of passes for officers, agents and employes of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; and provided, further, that this provision shall not be construed to prohibit the privilege of passes or franks or the exchange thereof with each other for the officers, agents, employes and their families of express companies and their officers, agents, employes and their families of other common carriers subject to the provision of this act.

Laws 1911, ch. 138, sec. 1.

Any common carrier violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any district court of this state of competent jurisdiction, be subject to a fine of not more than \$500 for each offense; and any person other than the persons excepted in this act who uses any such free ticket, free pass or free transportation shall be subject to a like penalty. *Same, sec. 2.*

OHIO

Nothing in this chapter shall prevent concentration, commodity, transit or other special contract rates, but all such rates shall be subject to the provisions of this chapter as to their printing and filing, shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be under the supervision and regulation of commission. *Code 1910, sec. 513.*

Nothing in this chapter shall prevent the carriage, storage or handling of freight free or at reduced rates for the United States, the states, any political subdivision or municipality thereof, for charitable purposes, to and from fairs and expositions for exhibition thereat, or household goods the property of railway employees; or the issuance of mileage, commutation or excursion passenger tickets, if obtainable by any person applying therefor without discrimination, or of party tickets, if obtainable by all persons applying therefor under like circumstances and conditions. *Same, sec. 515.*

No railroad company owning or operating a railroad wholly or in part within this state shall directly or indirectly issue or give a free ticket, free pass or free transportation for passengers except to its employees and their families, its officers, agents, surgeons, physicians and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, and soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to necessary caretakers of live stock, poultry and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail service employees, postoffice, custom

and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the railroad is interested, persons injured in wrecks and physicians and nurses attending such persons. *Same, sec. 516.*

The next preceding section shall not be construed to prohibit the interchange of passes for officers, agents and employes and their families, nor to prohibit any railroad company from
2176 carrying passengers free in order to provide relief in cases of general epidemics, pestilence or other calamitous visitation. *Same, sec. 517.*

Any railroad company violating the provision of the preceding three sections, for each offense shall be fined not less than \$50 nor more than \$500, and any person other than the persons
2177 excepted in such sections who uses such free ticket, free pass or free transportation shall be subject to a like penalty. *Same, sec. 518.*

Free service or service for less than cost shall not be furnished for the purpose of destroying competition, and such free
2178 service and every such charge is prohibited and declared unlawful. *Laws 1911, no. 325, sec. 16.*

Nothing in this act contained shall prevent any public utility or railroad from granting the whole or any part of its property for any public purpose, or granting reduced rate or free
2179 service of any kind to the United States government, the state government or any political division or subdivision thereof, or for charitable purposes or for fairs or expositions or to any officer or employe of such public utility or railroad or his family, and all contracts and agreements made or entered into by such public utility or railroad for such use, reduced rates or free service shall be valid and enforceable at law. *Same, sec. 75.*

OKLAHOMA

No railroad corporation or transportation or transmission company shall directly or indirectly issue or give any free frank or free ticket, free pass or other free transportation for any use within the state except to its officers, agents, surgeons, physicians and attorneys at law; to ministers of religion, traveling secretaries for railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work, to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of national homes or state homes for disabled

volunteer soldiers, and of soldiers' and sailors' homes including, those about to enter and those returning home after discharge, and boards of managers of such homes; to members of volunteer fire departments and their equipage while traveling as such; to necessary caretakers of live stock, poultry and fruit; to employes of sleeping cars, of express cars and to linemen of telegraph and telephone companies; to railway mail service employes, post-office, customs and immigration inspectors; to newsboys on
2100 trains, baggage agents, witnesses attending any legal investigation in which the railroad company or transportation company is interested, persons injured in wrecks and physicians and nurses attending such persons; provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employes of common carriers and their families; nor to prohibit any common carriers from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prevent them from transporting free of charge to their places of employment persons entering their service, and the interchange of passes to that end, and any railroad, transportation, or transmission company or any person other than the persons excepted in this provision who grants or uses any such free frank, free ticket, free pass or free transportation within this state shall be deemed guilty of a crime, and the legislature shall provide proper penalties for the violation of any provisions of this section by the railroad or transportation or transmission company or by any individual; provided that nothing herein shall prevent the legislature from extending these provisions so as to exclude such free transportation or franks from other persons. *Const., art. ix, sec. 13.*

See also par. 1934.

OREGON

Nothing in this act shall be construed to prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions,
2111 and shall be subject to the provisions of this act as to the printing and filing of the same; provided, all such rates shall be under the supervision and regulation of commission. *Gen. Laws 1907, ch. 53, sec. 19.*

Nothing herein shall prevent the carriage, storage or handling of freight free or at reduced rates for the United States, the state, or any municipality thereof, or for charitable purposes, or

to and from fairs and expositions for exhibition thereat, or household goods the property of railway employes, or commodities shipped by employes for their own exclusive use or consumption; or the issuance of mileage, commutation, party or excursion passengers' tickets provided the same shall be obtainable by all persons applying therefor under like circumstances and conditions, or the sale of such tickets as were usually and customarily sold at reduced rates prior to January 1, 1907, provided, the same are sold without discrimination to all persons applying therefor under like circumstances and conditions. This act shall not be construed as preventing railroads from giving free transportation or reduced rates therefor to its officers, agents, surgeons, physicians, employes and attorneys at law, or members of their families, or to former railroad employes or members of their families where such employes have become disabled in the railway service, or are unable from physical disqualification to continue in the service, or to members of the families of deceased railroad employes; or state and district officers of the state and county judges and sheriffs of the various counties of the state in cases where the same is now or may hereafter be required by law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and
2188 charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work, to officers or agents of incorporated colleges, to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to employes on sleeping cars, express cars and to linemen of telegraph and telephone companies; to officers of the United States reclamation service; to United States live stock inspectors; to railroad mail service employes, postoffice, customs and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the railroad is interested, persons injured in wrecks and physicians and nurses attending such persons; nor shall this act be construed to prevent the interchange of passes for the officers, agents or employes of common carriers and their families, nor to prevent any railroad from carrying passengers free with the object of providing relief in cases of general

epidemic, pestilence or other calamitous visitation. Upon any shipment of live stock, poultry, fruit or other property of such nature as to require the care of an attendant, the railroad may furnish to the shipper or some person or persons designated by him, free transportation for such purpose, including return passes to the point at which the shipment originated; provided, there shall be no discrimination in reference thereto between such shippers, and commission shall have power to prescribe regulations in relation thereto. *Same, sec. 21.*

2183 It shall be lawful for any railroad within the state to transport free or at reduced rates the national guard of the state or of other states, or volunteer or regular army of the United States, or military stores, property or equipments when such transportation is necessary for military purposes, and such railroad shall not thereby be deemed guilty of an unjust discrimination or an undue preference. *Gen. Laws 1911, ch. 56, sec. 1.*

2184 This section shall not be construed to prohibit the privilege of passes or franks or the exchange thereof with each other for the officers, agents, employes and their families of street railroads, telegraph, telephone and cable lines and the officers, agents and employes and their families of other street railroads, telegraph, telephone and cable lines and with the officers, employes and their families of railroad, express and sleeping car lines, union depots and other common carriers; provided, however, that nothing in this act shall be construed to prevent telephone, telegraph and cable companies from entering into contracts with common carriers for the exchange of services. Nothing herein shall prevent the transportation of persons or property or the production, transmission, delivery or furnishing of heat, light, water or power, or the conveying of telegraph or telephone messages within this state free or at reduced rates for the United States, the state, or any municipality thereof, or for charitable purposes, or to employes of any such public utility for their own exclusive use and benefit, nor prevent any such public utility from giving free transportation or service or reduced rates therefor, to its officers, agents, surgeons, physicians, employes and attorneys at law, or members of their families, or to former employes of such public utilities or members of their families where such former employes have become disabled in the service of such public utility or are unable from physical disqualification to continue in the service, or to members of families of deceased employes of such public utility; to ministers of religion, inmates

of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work.
Gen. Laws 1911, ch. 279, sec. 63.

See also par. 1935.

PENNSYLVANIA No railroad, railway or other transportation company shall grant free passes or passes at a discount to any
2185 person except officers or employes of the company. *Const., art. xvii, sec. 8.*

RHODE ISLAND A public utility may issue or give free transportation or service to its employes and their families, its officers,
2186 agents, surgeons, physicians and attorneys at law and to the officers, agents and employes and their families of any other public utility. *Acts 1912, ch. 795, sec. 42(a).*

With the approval of commission, any public utility may give free transportation or service upon such conditions as such public utility may impose, or grant special rates therefor to the state, to any town or city or to any water or fire district and to
2187 the officers thereof, for public purposes, and also to any special class or classes of persons not otherwise referred to in this section, in cases where the same shall seem to commission just and reasonable or required in the interests of the public, and not unjustly discriminatory. *Same, sec. 42(b).*

With the approval of commission, any public utility operating a railroad or street railroad may furnish to the publishers of
2188 newspapers and magazines and to their employes, passenger transportation in return for advertising in such newspapers or magazines at full rates. *Same, sec. 42(c).*

With the approval of commission, any public utility may
2189 exchange its service for the service of any other public utility furnishing a different class of service. *Same, sec. 42(d).*

Any free frank, pass, transportation or service heretofore issued, given or authorized for use or enjoyment during the year 1912 or any portion thereof shall remain lawful and of full effect under the condition and during the period for which it was
2190 issued, given or authorized during the year 1912. *Same, sec. 42(e).*

SOUTH CAROLINA Nothing in this chapter shall apply to the carriage, receiving, storing, handling or forwarding of property carried for the United States, or any state thereof at lower rates of
2191 freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for chari-

table purposes or to or from public fairs and expositions for exhibition. *Gen. Stats. 1902, sec. 2087.*

SOUTH DAKOTA No person, association, copartnership, railroad company, common carrier or corporation shall issue or give or offer to give to any person any free ticket, pass, frank or privilege of any kind which is withheld from any person for the traveling accommodation or transportation of persons or property, or
2192 the transmission or communication of any message or information for use within this state, nor give, issue or sell any such ticket, pass, frank or privilege to any person for a less or different sum or consideration than is charged to any other person for a like or similar ticket, pass, frank, privilege or service. *Sess. Laws 1907, ch. 221, sec. 1.*

Nothing in this act shall be construed to prohibit common carriers from issuing and giving free personal transportation to their officers and employes and their families or to any officer or employe of any other railroad company and his family when such officer or employe is in good faith upon the regular pay roll of such company; their regularly employed and acting physicians; and attorneys at law in good faith upon their regular pay roll at a salary of not less than \$500 per year; to ministers of religion and others engaged exclusively in charitable work; to inmates of national homes or state homes for disabled volunteer soldiers and sailors, including those about to enter and those returning home
2193 after discharge; to necessary caretakers of live stock in course of shipment and return; to employes on sleeping cars and express cars; linemen of telegraph and telephone companies and newsboys on trains; persons injured in wrecks and physicians and persons caring for or attending such persons; nor to prohibit the officer or employe of any telephone or telegraph company from communicating free of charge over the lines of his company, with any member of his immediate family. But no such free transportation shall be issued or given to any person when such person is a member of, employed by, or in any way connected with any political committee or a candidate for or an incumbent of any office or position under the constitution or laws or any ordinance of any municipality of this state. Provided, that common carriers shall not be prohibited from carrying persons free to provide relief from storm, flood, epidemic or other calamity. *Same, sec. 2.*

2194 Nothing in this act shall be construed to prohibit railroad companies from issuing excursion, commutation or long distance

tickets for transportation of persons at special rates, but any such tickets shall be offered and sold at a uniform price, to all persons alike, without discrimination. *Same, sec. 3.*

No person other than those excepted in this act shall solicit, accept or use any free ticket, pass, frank or privilege as defined herein whether the same shall have been issued before or after the passage and approval of this act; and no person, association
2195 or corporation or representative or agent thereof shall accept for the transportation of persons or property, or the transmission or communication of any message or information, nor recognize as valid, nor honor in any manner any such free ticket, pass, frank or privilege. *Same, sec. 4.*

Any violation of any of the above provisions shall be punished by a fine of not more than \$1,000 nor less than \$200, or by
2196 imprisonment in the penitentiary not more than five years nor less than one year, or by both such fine and imprisonment. *Same, sec. 6.*

No person shall be privileged from testifying in relation to anything herein contained, but no such person shall thereafter be prosecuted for any offense concerning which he may have
2197 been required to testify, and the testimony so given shall not be used in the prosecution of any such person in any criminal action whatever, except in actions for perjury in giving such testimony. *Same, sec. 7.*

Nothing herein contained shall be so construed as to pre-
2198 vent common carriers from issuing commutation, excursion or 1,000 mile tickets; provided, the same are issued alike to all applying therefor. *Session Laws 1911, ch. 207, sec. 27.*

Nothing in this article shall apply to the carriage, storage or handling of property free or at reduced rates for the United States, or this state, or municipal governments, for charitable purposes or to and from fairs and expositions for exhibit thereat, or for the employes of such common carriers or their families, or private property or goods for the family use of the employes of such common carriers, or the issuance of mileage, excursion or commutation passenger and telephone tickets. Nothing in this article shall be construed to prohibit any common carrier from
2199 giving reduced rates to ministers of religion, or to prevent common carriers from giving free carriage to their own officers and employes and their families dependent on such officer or employe for support, and to persons in charge of live stock being shipped from the point of shipment to destination and return, or to pre-

vent the principal officers of any common carriers or companies from exchanging passes or tickets with other common carriers for their officers and employes; and nothing in this article shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this article are in addition to such remedies. *Same, sec. 32.*

TENNESSEE

This act shall not prevent any railroad company from transporting freight free or at reduced rates for any religious, charitable or benevolent purpose or for any industrial exposition, fair or association of a public nature, or for transporting immigrants into this state, or persons prospecting with a view of locating or bringing immigrants into this state, or for
2200 pleasure excursions. However, nothing in this act shall be construed so as to prevent the railroads of this state from giving special rates to encourage infant manufacturing industries and for the encouragement of any other new business or industry, or for the transportation of any perishable goods; provided, that such transportation shall be furnished without discrimination and under such rules and regulations as commission may prescribe.
Acts 1897, ch. 10, sec. 24.

TEXAS

Nothing herein shall prevent the carriage, storage or handling by railroad companies in this state, or by their agents, officers, clerks, servants and employes, of freight free, or at reduced rates, for the state, or for any city or county or town government, or for charitable purposes, or to and from fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets; nor to prevent railroads from giving free transportation to ministers of religion or free transportation to the inmates of hospitals, eleemosynary and charitable
2201 institutions, and to the employes of the agricultural and geological departments of the state, or to the peace officers of this state; and nothing herein shall be construed to prevent railroads, their agents and employes and officers, from giving free transportation to any railroad officers, agents, employes, attorneys, stockholders or directors, or to the commissioners, their secretaries, clerks and employes, or to any other officer or person not prohibited by law. *Laws 1899, ch. 118, sec. 2.*

Any court, officer or tribunal having jurisdiction of the offense mentioned in this act, or any district or county attorney, may subpoena persons and compel their attendance as witnesses

to testify as to the violations of this act; and any person so summoned and examined shall not be liable to prosecution for any violation of this act about which he may testify, and for any offense by reason of violations of this act; a conviction may be had upon the unsupported evidence of an accomplice or participant. *Same, sec. 3.*

It shall be the duty of every district judge in this state in whose court a grand jury shall be empaneled to charge said grand jury, whenever organized, to thoroughly investigate with reference to violations of this act. *Same, sec. 4.*

If any steam or electric railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, or person or association of persons operating the same, or the receivers or lessees thereof, or any officer, agent or employe of any such company in this state, shall knowingly haul or carry any person or property free of charge or give or grant to any person, firm, association of persons or corporation, a free pass, frank and privilege or a substitute for pay or a substitute which is used or which is given to be used instead of the regular fare or rate for transportation, or any authority to permit whatsoever to travel or to pass or convey or transport any person or property free, or sell any transportation for anything except money or for any greater or less rate than is charged to all persons under the same condition, over any railway or other transportation line or part of line in this state; or shall knowingly permit any person to transmit any message free in this state, or shall give any frank or right or privilege to transmit messages free in this state or property free of charge or for greater or less fare or rate than is charged other persons in this state for similar service; except such persons as are hereinafter exempted under the provisions of this act shall be guilty of a misdemeanor, and upon conviction in any action brought on this account, and for that purpose, shall pay to the state the sum of \$5,000 for each and every act which violates the provisions of this section; and any person, president, director, officer, employe or agent of any such corporation or association of persons who shall sell any transportation for anything except money, or knowingly give, grant, issue or cause to be issued a free pass, frank and privilege or any substitute for or in lieu thereof for the transportation of any person, article or thing or the sending or transmitting of any messages over wire or other means of transmitting messages in this

state except to such persons as are hereinafter exempted from the provisions of this act, shall be deemed guilty of a felony under the laws of this state, and upon conviction for such act shall be punished by a fine of not less than \$500 nor more than \$2,000, and may in addition thereto in the discretion of the jury be imprisoned in the penitentiary for a term of not less than six months nor more than two years. *Laws 1907, ch. 42, sec. 1.*

The provisions of section one of this act shall not be held to prohibit any steam or electric or interurban railway company or chartered transportation company, or sleeping car company, or the receivers or lessees thereof, or persons operating the same, or the officers, agents or employes thereof from granting free or exchanging free passes, franks, privileges, substitute or pay or other thing herein prohibited, to the following persons: The actual bona fide employes of any such companies and the dependent members of their immediate families. The term employes shall be construed to embrace the following persons only: All persons actually employed and engaged in the service of any of such companies, including its officers, bona fide ticket, passenger and freight agents, physicians, surgeons and general attorneys who appear in courts of record to try cases and who receive a reasonable annual salary, and also ex-employes within four months after leaving the service of any of such companies and while seeking employment. Also persons actually employed on sleeping cars, express cars, linemen of telegraph and telephone companies, newsboys employed on trains; railway mail service employes, postoffice inspectors, chairman and bona fide members of grievance committee of employes, bona fide custom and immigration inspectors employed by the government, the state health officer and one assistant, and federal health officers, also when live stock, poultry, fruit, melons or other perishable produce is shipped, the necessary caretakers while en route and return, also trip passes to the indigent poor when application therefor is made by any religious or charitable organization, societies of charity, also persons injured in wrecks upon the road of any such company immediately after such injury and the physicians and nurses attending such persons at the time thereof, also persons and property carried in cases of general epidemic, pestilence or other calamitous visitations at the time thereof, or immediately thereafter. Also the state rangers, sheriffs or other bona fide elective peace officers whose duties are to include criminal processes, provided, that if any such railroad or transportation company shall grant to any

sheriff a free pass over its lines of railroad then it shall issue like free transportation to each and every sheriff in this state who may make to it written application therefor, and provided, further, that said sheriffs and other peace officers above mentioned using such free passes or transportation shall deduct the money value of the same at the legal rate per mile from any mileage accounts against the state and litigants earned by them in executing processes when such pass was used or could have been used; also members of the live stock sanitary commission of Texas, not exceeding 12 in number for any one year; provided, that nothing in this act shall prevent any such companies, receivers or lessees thereof, or the officers, agents or employes from granting to ministers of religion reduced rates of half the regular fare, nor shall anything in this act prevent any such companies, their receivers or lessees from transporting free of charge any article being sent to any orphan home or other charitable institution; provided, further, that nothing in this act shall be construed to prohibit any such companies, their receivers or lessees or officers, agents or servants from making special rates for special occasions or under special conditions, but no such rate shall even (ever) be made without first obtaining authority from commission; and provided, further, that no persons who hold any public office in this state shall at any time during their term of office be entitled to any such free pass or transportation, privilege or franks or substitute for fare or charges over any railway or other company mentioned in section one of this act, except employes operating trains when in the actual discharge of their duties as such and the officers hereinbefore exempted; provided, further, that nothing in this act shall prohibit any street railway company from transporting free of charge police officers and firemen in any city where said company is authorized so to do by any ordinance or authority from the city council from any such city; provided, however, that no person or persons beneficiaries of free transportation herein permitted shall ride on a free pass or enjoy free transportation to or from any political convention or on any political errand. That nothing in this act shall prohibit any express company from hauling or carrying free of charge the packages and property of its actual and bona fide officers, attorneys, agents and employes who are actually in the employment of any such company, its receivers and lessees at the time when such free transportation or right thereto is given; and provided, further, that nothing in this act shall be construed to prohibit any telegraph or telephone com-

pany from carrying and transmitting free of charge messages of its bona fide officers, attorneys, agents and employes who are actually in the employment of such company, its receivers or lessees at the time when such free transportation or right thereto was given. *Same, sec. 2.*

2206 If any person shall present or offer to use in his own behalf any permit or frank whatsoever to travel, pass or to convey any person or property or message which has been issued to any other person or shall, knowing that he is not entitled under the provisions of this act, apply to any railway, express, telegraph or telephone company, officer, agent, lessee or receiver thereof for any free pass, frank, privilege or a substitute for pay given or to be used instead of the regular fare or rate for transportation or for any other consideration except money, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by confinement in the county jail for not less than 30 days and not more than 12 months, and by a fine of not less than \$100 and not more than \$1,000. *Same, sec. 3.*

2207 No person other than the persons excepted in this act who uses any such free ticket, free pass or free transportation, frank or privilege over any railway or other transportation line or sleeping or express car, telegraph or telephone line mentioned in this act for any distance under the control and operation of either of said companies subject to the provisions of this act or under their authority, or shall knowingly and wilfully by any means or device whatsoever obtain, use or enjoy from any such company a less fare or rate than is charged, demanded, collected or received by any such company from any other person, firm, association of persons or corporations for doing for him, them or it a like service if the transportation or service is of a like kind of traffic or service under substantially similar circumstances and conditions, such person or such officer or agent who acts for such corporation or company thus favored shall be guilty of a misdemeanor and on conviction for each offense shall be fined not less than \$100 and not more than \$1,000. *Same, sec. 6.*

Any director, officer, agent or any receiver, trustee, lessee or person acting for or employed by any company subject to the provisions of this act, who alone or with any other corporation, company, person or party shall wilfully do or cause to be done, or shall wilfully suffer or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any

act, matter or thing in this act required to be done, or shall cause or wilfully suffer or permit any act, matter or thing so directed, required by this act to be done, not to be done, or shall aid or abet such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall upon conviction be subject to a fine of not less than \$100 nor more than \$1,000, and if the offense for which any person shall be convicted under this section shall be unlawful discrimination in rates, fares or charges for the transportation of passengers or property or the transmission of messages, such person may in addition to the fines hereinbefore provided for, at the discretion of the jury, be imprisoned in the penitentiary for a term not less than six months nor more than two years. *Same, sec. 7.*

Suits brought under this act for the recovery of penalties may be brought in any court in this state having jurisdiction of the subject matter in any county (1) where an act in violation of the provisions hereof is committed; (2) where such company or receiver has an agent or representative; (3) where the principal office of such company is situated or such receiver or receivers or either reside, and half of all moneys collected under the provisions of this act less the commission and expenses allowed by law, shall be paid into the state treasury and constitute a part of the general revenue of the state, and the remainder thereof shall be paid into the treasury of the county where such suit or suits may be maintained and constitute a part of the jury fund of such county. *Same, sec. 8.*

It is made the duty of commission, the attorney general and the district and county attorneys of this state under the direction of the attorney general to see that the provisions of this act are enforced and obeyed, and penalties due the state are recovered and collected, and commission shall report to the attorney general all violations within their knowledge with the facts in their possession, and request him to institute or have instituted the proper proceedings for the recovery of any penalty that may be due the state. *Same, sec. 9.*

In any investigation, suit or prosecution which may be had or instituted under the provisions of this act, the court or tribunal in which the investigation, suit or prosecution is pending may compel all persons to attend and give testimony, and to produce such papers, books and documents as may be desired by the state, and no person shall be exempt from giving testimony there-

in; provided, however, that no criminal action or proceeding shall be brought or prosecuted against such witness on account of any testimony so given or furnished by him. *Same, sec. 10.*

If any provision or provisions of this act which exempt or except any person, corporation or class or persons from the operation and effects of this act, or which authorize any such persons, corporations or class of persons to give, grant, issue, 2212 receive or accept free transportation or transportation at any rate other than is granted to any and all persons of this state, shall be held unconstitutional or invalid, such holding as to any such provision or provisions shall not invalidate any other portion of this act. *Same, sec. 11.*

VERMONT

Railroad companies may transport at special and reduced rates to and from a public agricultural exhibition or fair, animals or other property to be there publicly exhibited, and may transport at special and reduced rates to and from schools 2213 and other institutions of learning in this state students there attending, provided, that such rates shall be available to all who exhibit at such exhibitions or fairs or attend such schools or other institutions of learning. *Pub. Stats. 1906, sec. 4486.*

No railroad shall directly or indirectly issue or give to any person a free ticket, free pass or transportation; nor shall any person use any free ticket, pass or transportation; provided, that this section shall not apply to the members of commission, the clerk and other employes of said commission, the employes of the railroad and their families or its officers, agents, servants, physicians and attorneys and their families, traveling secretaries of railroad Young Men's Christian Associations, county secretaries of Young Men's Christian Associations, necessary caretakers of live stock, perishable farm and dairy produce, poultry and fruit, employes of parlor, sleeping and express cars, linemen of telegraph and telephone companies, railroad mail service employes, 2214 postoffice inspectors, customs officers and immigration inspectors and their deputies, newsboys on trains, baggage agents, persons injured in wrecks and the nurses and physicians attending such persons; nor shall it apply to the interchange of passes between the officers, agents and employes of railroads and their families, nor to the carrying of passengers free in cases of epidemic, pestilence or other calamitous visitations; nor shall it apply to the transportation of live fish for the purpose of stocking waters of this state or for propagation, and the necessary caretakers in charge thereof; nor shall it apply to the carrying of fire companies

and their equipment free or at special and reduced rates in case of conflagration; nor to the transportation of freight or passengers when the same are being used or employed under order of any state officials in imparting instruction upon agriculture. *Same, sec. 4532.*

This section shall not apply to the exchanges by the railroad companies of the state of the mileage books for advertising space in the newspapers of the state at regular published card rates, said advertising to include the publication of their time tables and such other bona fide advertising matter as shall be deemed
2215 proper. Mileages so used must be accounted for in the annual reports to commission and in the annual reports to the stockholders of the respective roads issuing such mileages as though said mileages were sold for cash; and advertising bought with mileages must be vouchered and included in the advertising expense accounts in said reports as though paid for in cash. *Same.*

The rates of fare charged by street railway companies for the transportation of pupils of public or private schools between a given point from or to which it is necessary for them to ride in traveling to and from the school houses in which they attend school, and their homes, whether such school houses are located
2216 in the city or town in which the pupils reside or in another city or town, shall not exceed one-half the regular fare charged by such street railway company for the transportation of other passengers between said points, and the tickets for the transportation of pupils as aforesaid, good during the days on which said schools are in session, shall be sold by such companies in lots of ten each or any multiple of ten as the purchaser desires. A railway company which violates the provisions of this section shall forfeit \$25 for each offense. *Laws 1910, no. 150, sec. 1.*

See also par. 1946.

VIRGINIA

Nothing in this chapter shall apply to the carriage, storage or handling of property free or at reduced rates when such rates have been authorized or prescribed by commission for the United States, state or municipal government or for charitable purposes or to or from fairs and expositions for exhibition thereat, or the free carriage of homeless and destitute persons and the necessary agents employed in such transportation, or to mileage, excursion or commutation passenger tickets, or to persons in charge of live stock being shipped from the point of shipment to the point of destination and return. Nothing in this chapter shall be construed to prohibit any transportation com-

pany from giving reduced rates to ministers of religion or to indigent persons or to inmates of the confederate homes or state homes for disabled soldiers and sailors or to disabled soldiers and sailors, including those about to enter and those returning home after discharge, or carrying the same free; nothing in this chapter shall be construed to prevent transportation companies from giving free carriage to their own officers, employes and members of their families or to any other person or persons to whom the giving of such free carriage is not prohibited by the constitution of this state, or to prevent the principal officers of any transportation company from exchanging passes or tickets with other transportation companies for their officers, employes and members of their families. *Pollard's Code 1904, sec. 1294c(15).*

See also pars. 1948, 1952.

WASHINGTON

No common carrier shall directly or indirectly issue or give any free ticket, free pass or free or reduced transportation for passengers between points within this state except its employes¹ and their families, its officers, agents, surgeons, physicians and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation, to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of live stock, poultry, milk and fruit; to employes of sleeping car companies, express companies and to linemen of telegraph and telephone companies; to railway mail service employes, postoffice, customs and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the national guard of Washington when on official duty, and students going to and returning from state institutions of learning; provided, that this provision shall not be construed to

¹ Provided, that the term "employes" as used in this section shall include furloughed, pensioned and superannuated employes, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service and ex-employes traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this section shall include the families of those persons named in this proviso, also the families of persons killed and widows during widowhood and minor children during minority of persons who died while in the service of any such common carrier. *Laws 1911, ch. 117, sec. 18.*

prohibit the interchange of passes for the officers, attorneys, agents and employes and their families of railroad companies, steamboat companies, express companies and sleeping car companies with other railroad companies, steamboat companies, express companies and sleeping car companies, nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; and provided, further, that this provision shall not be construed to prohibit the exchange of passes or franks for the officers, attorneys, agents, employes and their families of such telegraph, telephone and cable lines and the officers, attorneys, agents, employes and their families of other telegraph, telephone or cable lines, or with railroad companies, express companies or sleeping car companies; and provided, further, that nothing herein contained shall prevent the issuance of mileage, commutation tickets or excursion passenger tickets; and provided, further, that nothing in this section shall be construed to prevent the issuance of free or reduced transportation by any street railroad company for mail carriers or policemen or members of fire departments, city officers and employes when engaged in the performance of their duties as such city employes. *Laws 1911, ch. 117, sec. 18.*

Common carriers may carry, store or handle free or at reduced rates property for the United States, state, county or municipal governments, or for charitable purposes, or to and from
2219 fairs and exhibitions for exhibition thereat, and may carry, store or handle free or at reduced rates the household goods and personal effects of its employes and those entering or leaving its service, and those killed or dying while in its service. *Same.*

Nothing in this act shall be construed to prohibit the making of a special contract providing for the mutual exchange of service between any railroad company and any telegraph or telephone
2220 company where the line of such telegraph or telephone company is situated upon or along the railroad right of way and used by both of such companies. *Same.*

No gas, electrical or water company shall furnish its product at free or reduced rates except to its employes ¹ and their families and its officers, attorneys and agents; to hospitals, charitable and

¹ Provided, that the term "employes" as used in this paragraph shall include furloughed, pensioned and superannuated employes, persons who have become disabled or infirm in the service of any such company; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, the families of persons killed or dying in the service, also the families of persons killed and the widows during widowhood and the minor children during minority of persons who died while in the service of any of the companies named in this paragraph. *Laws 1911, ch. 117, sec. 20.*

eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes; and provided, further, that water companies may furnish free or at reduced rates water for the use of the state or for any product in which the state is interested. *Same, sec. 29.*

No telephone or telegraph company shall directly or indirectly give any free or reduced service or any free pass or frank for the transmission of messages by either telephone or telegraph between points within this state except to its officers, employes, agents, pensioners, surgeons, physicians, attorneys at law and their families, and persons and corporations exclusively engaged in charitable and eleemosynary work and ministers of religion, Young Men's Christian Associations, Young Women's Christian Associations; to indigent and destitute persons and to officers and employes of other telephone companies, telegraph companies, railroad companies and street railroad companies. *Same, sec. 40.*

No wharfinger or warehouseman shall furnish dockage, wharfage or storage or free or reduced rates except to its employes¹ and their families and its officers, attorneys and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes. *Same, sec. 40.*

WISCONSIN

Nothing in this act shall be construed to prevent concentration, commodity, transit or other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the provisions of this act as to the printing and filing of the same; provided, all such rates shall be under the supervision and regulation of commission. *Laws 1905, ch. 362, sec. 1797-6.*

Nothing herein shall prevent the carriage, storage or hauling of freight free or at reduced rates for the United States, the state or any municipality thereof, or for charitable purposes, or to and

¹ Provided that the term "employes" as used in this section shall include furloughed, pensioned and superannuated employes, persons who have become disabled or infirm in the service of such wharfinger or warehouseman; and the term "families" as used in this section shall include the families of those persons named in this proviso, also the families of persons killed or dying in the service, also the families of persons killed and the widows during widowhood and the minor children during minority of persons who died while in the service of any such wharfinger or warehouseman. *Laws 1911, ch. 117, sec. 49.*

from fairs and expositions for exhibition thereat, or household goods the property of railway employes, or commodities shipped by employes for their own exclusive use or consumption; or the
2226 issuance of mileage, commutation or excursion passengers' tickets, provided the same shall be obtainable by any person applying therefor without discrimination, or the party tickets, provided the same shall be obtainable by all persons applying therefor under like circumstances and conditions; or the sale of such tickets as were usually and customarily sold at reduced rates prior to June 15, 1905, provided, the same are sold without discrimination to all persons applying therefor under like circumstances and conditions. *Same, sec. 1797-8(1), as amended by Laws 1905, sp. sess., ch. 13.*

This act shall not be construed as preventing railroads from giving free transportation or reduced rates therefor to any minister of the gospel, officers or agent of incorporated colleges, inmates of soldiers' homes, regular agents of charitable societies when traveling upon the business of the society only, destitute and homeless persons, railroad officer, attorney, director, em-
2226 ploye, or members of their families, or to former railroad employes or members of their families where such employes have become disabled in the railway service or are unable from physical disqualification to continue in the service, or to members of families of deceased railroad employes; or to prevent the exchange of passes with officers, attorneys or employes of other railroads and members of their families; provided, that no person holding any public office or position under the laws of this state shall be given free transportation or reduced rates not open to the public. *Same, sec. 1797-8(2), as amended by Laws 1905, sp. sess., ch. 13.*

This act shall not be construed as preventing railroad companies from giving free transportation or reduced rates therefor to persons actually engaged for more than half of their time each year in the business of selling unimproved land within the state to settlers. No transportation hereunder shall be delivered to or used by any such person until commission upon application of
2227 such person and after investigation as it may deem necessary, shall have determined that such applicant is actually engaged in such business within the law and spirit of this provision, and shall have issued to such applicant a certificate to that effect. On or before the tenth day of each month every person holding a certificate hereunder shall report to commission the miles traveled upon the railroads of the state under the provisions hereof during

the preceding calendar month. *Laws 1909, ch. 109, sec. 1797-8 (3), as amended by Laws 1911, ch. 150.*

Upon any shipment of live stock or other property of such nature as to require the care of an attendant, the railroad may furnish to the shipper or some person or persons designated by him, free transportation for such attendant including return passage to the point at which the shipment originated; provided there shall be no discrimination in reference thereto between such shippers, and commission shall have power to prescribe regulations in relation thereto. *Laws 1905, ch. 362, sec. 1797-8(4), as amended by Laws 1905, sp. sess., ch. 13.*

Except as provided in this section no free transportation for intrastate traffic shall be given to any person by any railroad. *Same, sec. 1797-8(5), as amended by Laws 1905, sp. sess., ch. 13.*

K. SPECIAL PROHIBITIONS AGAINST OFFERING, GRANTING, SOLICITING OR ACCEPTING FREE OR REDUCED RATE OR SPECIAL SERVICE APPLICABLE TO PUBLIC OFFICIALS OR MEMBERS OF POLITICAL ORGANIZATIONS, WITH EXCEPTIONS THERETO.

ALABAMA No railroad or other transportation company or corporation shall grant free passes or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the legislature or to any officer exercising judicial functions under the laws of this state; and any such member or other officer receiving such a pass or ticket for himself, or procuring the same for another, shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding \$500, and at the discretion of the court trying the case, in addition to such fine, may be imprisoned for a term not exceeding six months, and upon conviction, shall be subject to impeachment and removal from office. The courts having jurisdiction shall give the law specially in charge to the grand juries, and when the evidence is sufficient to authorize an indictment the grand jury must present a true bill. The circuit court or any court of like jurisdiction in any county into or through which such member or officer is transported by the use of such prohibited pass or ticket shall have jurisdiction of the case, provided only one prosecution shall be had for the same offense, and

provided further that the trial and judgment for one offense shall not bar a prosecution for another offense, when the same pass or ticket is used; and provided further that nothing herein shall prevent a member of the legislature who is a bona fide employe of a railroad or other transportation company or corporation at the time of his election from accepting or procuring for himself or another not a member of the legislature, or officer exercising judicial functions, a free pass over the railroad or other transportation company or corporation by which he is employed. *Const., sec. 244.*

ARKANSAS

No railroad or transportation company shall grant any free pass in the cars or other modes of conveyance over the line of any such railroad or transportation company for any length of time or for any distance to any officer of the state, legislative, executive or judicial, whereby any such officer may be transported for any length of time or for any distance over the line of any such railroad or transportation company, either free of charge therefor or for a less compensation than that demanded or received from the general public. *Kirby's Digest 1904, sec. 5694.*

CALIFORNIA

No railroad or other transportation company shall grant free passes or passes or tickets at a discount to any person holding any office of honor, trust or profit in this state; and the acceptance of any such pass or ticket by a member of the legislature or any public officer other than railroad commissioners shall work a forfeiture of his office. *Const., art. xii, sec. 19.*

FLORIDA

No railroad or other transportation company or common carrier shall grant a free pass or discount in the fare paid by the public generally to any member of the legislature, or to any salaried officer of this state, and the legislature shall prohibit the granting or receiving such free pass or fare at a discount by suitable penalties. *Const., art. xvi, sec. 31.*

INDIANA

See par. 2105.

KENTUCKY

No railroad, steamboat or other common carrier, under heavy penalty to be fixed by the general assembly, shall give a free pass or passes, or shall at reduced rates not common to the public sell tickets for transportation to any state, district, city, town or county officer, or member of the general assembly or judge; and any state, district, city, town or county officer or member of the general assembly, or judge, who shall accept or

use a free pass or passes, or shall receive or use tickets or transportation at reduced rates not common to the public, shall forfeit his office. It shall be the duty of the general assembly to enact laws to enforce the provisions of this section. *Const., sec. 197.*

MAINE

No person holding any federal, state or county or municipal office shall request for himself or another, accept or use, any free transportation upon a steam or other railway, or any ticket or token which entitles him to transportation upon such railway for which he has paid a less price than is demanded of the public generally; and no officer, agent or employe of such railway corporation shall knowingly issue, deliver or offer to any 2226 person hereinbefore mentioned, or to or for any other person at the request, solicitation or procurement of any federal, state or county or municipal officer, except for cases of charity, free transportation or any ticket or token which entitles him to transportation at a less rate of fare than is demanded of the public generally. *Pub. Laws 1907, ch. 153, sec. 1, as amended by Pub. Laws 1909, ch. 72, sec. 1.*¹

MASSACHUSETTS

Any person who, being governor, lieutenant-governor, member of the council, member or member-elect of the general court, justice of the supreme judicial court, justice of the superior court, judge of probate, justice of a police district or municipal court, or a county commissioner, who requests for himself or another, accepts or uses any free pass upon a railroad, or any ticket which entitles him to transportation upon a railroad for which he has paid a less price than is demanded of the public 2226 generally, and an officer, agent or employe of a railroad corporation who issues, delivers or offers to any person hereinbefore mentioned, or to or for any other person at the request, solicitation or procurement of any such person, a free pass or any ticket which entitles him to transportation at a less rate of fare than is demanded of the public generally, shall be punished by a fine of not less than \$100, nor more than \$1,000. *Acts 1906, ch. 463, pt. II, sec. 190.*

Street railway companies shall not give free tickets or passes to any state, county or municipal official, or to any person in the employ of the commonwealth or of any county, city or town, except policemen, firemen and letter-carriers in uniform; but it may 2227 give them to the director of the company, or to any person who is connected with it in any executive capacity. A company which violates any of the provisions of this section shall forfeit for each

¹ See paragraph 2123.

offense not less than \$100, nor more than \$500. *Same, pt. iii, sec. 98.*

MINNESOTA

See par. 2139.

MISSOURI

No railroad or other transportation company shall grant or issue free passes or tickets, or passes or tickets at a discount, to members of the general assembly of the state, or members of the state board of equalization, or any state, county or municipal officer. Any railroad or other transportation company violating the provisions of this section shall forfeit and pay **2225** for each offense the sum of \$200, which may be recovered in the name of the state in any court of competent jurisdiction, and shall be prosecuted by the prosecuting attorney of the county where the offense was committed, or the attorney general, and the amount recovered shall be paid into the county school fund of said county. *Rev. Stats. 1909, sec. 4812.*

NEBRASKA

It is declared to be unlawful for any street railway company, its officers or agents, in any state or village in this state, to carry any officer, either elected or appointed, of said city or village, except the chief and members of the fire department and policemen of said city or village, upon its cars free of charge, or for a smaller charge or price than it charges other patrons for similar service, or to furnish to any such officer a free pass authorizing such person to ride or be carried free on the cars of any such street railway company, or to furnish to any such officer free of charge any emblem or emblems upon metal or other substance whereby such officer may be carried free upon the cars of such street railway company, or to resort to any other means whereby any such **2230** officer may be enabled to ride free of charge, or for a less charge or price, than such company exacts from other customers for similar service upon any such street railway company's cars. A violation of any of the provisions of this section by a street railway company shall be punishable by a fine of not less than \$200, nor more than \$500 and the officer or agent of such company acting for the company in any such violation shall be punished by imprisonment in the county jail for a period of not less than 30 days, nor more than six months; provided, that if any conductor in charge of any street car shall, in obedience to any free pass, or by any other direction of the company or its managing officers, permit any person to ride free upon such car, such conductor shall not be deemed, by reason of such act, to have violated any of the provisions of this section. *Comp. Stats. 1907, sec. 1895.*

If any officers, except the chief and members of the fire department and policemen, either elective or appointive, in any city or village in the state, shall accept and use any free pass from a street railway company in the city or village for which he is an officer, whereby such officer is enabled to be carried free of charge upon the cars of such street railway, or shall accept or use any emblem or emblems upon metal or other substance, whereby such officer is enabled to be carried free of charge upon the cars of any such street railway company, or shall resort to any other means whereby he, as such officer, shall be carried free of charge, or for
2240 a less price or charge than such company exacts from others for similar services, upon the cars of any street railway company, he shall for every such offense, upon conviction be punished by a fine of not less than \$100, nor more than \$500, and by imprisonment in the county jail for a period of not less than 30 days nor more than 90 days, and shall moreover forfeit his office at the time held by him; provided, that each time any such officer shall ride free upon any such street railway cars by reason or means of any free pass, emblem or emblems, or by resort to any other means, shall constitute a violation of the provisions of this section by such officer, and shall also be a violation of section 1895 by such street railway company. *Same, sec. 1896.*

It is declared to be unlawful for any telephone company to furnish to any officer of any city or village in the state, whether such officer be elective or appointive, a telephone free of charge or for a price less than that charged other customers for similar service, or for any such officer to accept such telephone or telephone service free of charge or at a less price than shall be charged to other customers for similar service. Any violation of this section by a telephone company shall be punishable by a fine of not
2241 less than \$100 nor more than \$500, and the officer or agent of any such telephone company acting or assisting in such violation shall be punished by imprisonment in the county jail for not less than 30 days nor more than six months, and any violation of this section by any officer of any such city or village shall subject him to a fine of not less than \$100 and not more than \$500, and by imprisonment in the county jail for a period of not more than 90 days, and he shall, upon conviction, forfeit the office held by him at the time of committing such offense. *Same, sec. 1897.*

NEVADA

It shall be unlawful for any person, firm or corporation engaged in business as a common carrier to give or furnish to any state, district, county or municipal officer of the

state, or to any person other than those mentioned in section eight, any pass, frank, free or reduced rate transportation, or for any such state, district, county or municipal officer to accept such
2243 frank, pass, free or reduced rate transportation. Any firm, person or corporation, or the agent thereof, or any state, district, county or municipal officer, violating the provisions of this section shall, upon conviction thereof, be fined in any sum not less than \$100, nor more than \$500, and in addition to such penalty, the office of any such state, district, county or municipal officer shall, upon his conviction, *ipso facto* become vacant. *Stats. 1907, ch. 44, sec. 25, as amended by Stats. 1909, ch. 121, sec. 9.*

NEW HAMPSHIRE Any person who being governor, member of the executive council, member or member-elect of the general court, justice of the supreme court, justice of the superior court, judge of probate, justice of a police or municipal court, county solicitor, county sheriff, county commissioners, or a salaried state officer appointed by the governor and council, or elected by the legislature, whose transportation expenses are made by statute a charge upon the state treasury, and for whose transportation authority is provided by law, who requests for himself or another, accepts or uses, any free pass upon a steam railroad, or any ticket
2243 which entitles him to transportation upon a steam railroad for which he has paid a less price than is demanded of the public generally, and the officer, agent or employe of a steam railroad corporation who knowingly issues, delivers or offers to any person hereinbefore mentioned, or to or for any other person at the request, solicitation or procurement of any such person, a free pass, or any ticket which entitles him to transportation at a less rate of fare than is demanded of the public generally, shall be punished by a fine of not less than \$100 nor more than \$1,000. *Laws 1907, ch. 79, sec. 1.*

Any person being or serving as a delegate to a political convention within the state, who requests, accepts or uses any free pass, or any ticket which entitles him to transportation upon any steam railroad in the state to or from the political convention in which he is to serve as a delegate, for which he has paid a less price than is at the time demanded of the public generally for like transportation; and any officer, agent or employe of a steam railroad corporation who issues, delivers or offers to any such person, knowing him to be a delegate, as aforesaid, free pass or any ticket which entitles him to transportation to or from the political convention in which he is to serve as a delegate, at a less rate of fare

than is at the time demanded of the public generally for like transportation, shall be punished by a fine of not less than \$100 nor more than \$1,000. *Same, sec. 3.*

The inhibitions of this act shall not apply to any railroad official or employes or their families, or agents, surgeons, attorneys 2245 at law, or witnesses attending any investigation or trial in which they are interested. *Same, sec. 4.*

NEW JERSEY The governor, chancellor, vice chancellor, justice of the supreme court, justice of the court of errors and appeals, secretary of state, state treasurer, state comptroller, clerk in chancery, clerk of the supreme court, adjutant general, 2246 quartermaster general, state librarian, state prison keeper and state superintendent of public schools, while traveling for the purpose of discharging the duties of their offices, and the members and officers of both houses of the legislature of this state, shall pass and repass free of charge on the railroad of any company organized under this act. *Laws 1903, ch. 257, sec. 40.*

No public utility shall give, grant or bestow upon any local, municipal or county official any discrimination, gratuity or free service whatsoever, but nothing herein contained shall prevent 2247 the entering into any public conveyance or in or upon the property of any such public utility by any such official in the pursuit of his public duties in connection with the particular conveyance or property so entered by him upon exhibiting his authority so to do. *Laws 1911, ch. 195, sec. 18(g).*

NEW YORK No public officer or person elected or appointed to a public office under the laws of the state shall directly or indirectly ask, demand, accept, receive or consent to receive, for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section shall be deemed guilty of a misdemeanor and shall forfeit his office 2248 at the suit of the attorney general. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer or person elected or appointed to a public office any such free pass, free transportation, franking privilege or discrimination shall also be deemed guilty of a misdemeanor and liable to punishment, except as herein provided. No person or officer or agent of a corporation giving any such free transportation, franking privilege

or discrimination hereby prohibited shall be prevented from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of same. *Const., art. xiii, sec. 5.*

OHIO

Upon the granting of franchises to traction companies throughout this state for the use of streets, roads, and highways for the transportation of passengers it must be provided
2346 as one of the considerations for such use of the public highways, that such traction companies shall carry free as passengers on any and all regular cars, policemen and firemen when on duty and in uniform. *Code 1910, sec. 9114.*

OREGON

No public utility or any agent or officer thereof, or any agent or officer of any municipality constituting a public utility, shall offer or give for any purpose to any political committee, or any member or employe thereof, to any candidate for or incumbent of any office or position under the constitution or laws, or under any ordinance of any municipality of the state, or
2350 to any person at the request or for the advantage of all or any of them, any pass, reduced rate, frank, or any privilege withheld from any person for any transportation, product or service produced, transmitted, delivered, furnished or rendered, or to be transported, produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication, or any free produce or service whatsoever. *Gen. Laws 1911, ch. 279, sec. 62.*

No political committee and no member or employe thereof, no candidate for and no incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality of the state, shall ask for or accept from any public utility, or any agent or officer thereof, or any agent or officer of any municipality constituting a public utility, or use in any manner or for any purpose any pass, reduced rate, frank or privilege withheld from any person for any transportation, product or
2351 service produced, transmitted, delivered, furnished or rendered, or to be produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication. Any violation of any of the provisions of this section shall be punished by imprisonment in the state penitentiary for not more than five years nor less than one year, or by fine not exceeding \$1,000 nor less than \$200, or by both such fine and imprisonment. *Same.*

SOUTH DAKOTA *See par. 2193.*

TEXAS *See par. 2205.*

VIRGINIA No transportation or transmission company shall grant to any member of the general assembly, or to any state, county, district or municipal officer, except to members and officers of commission for their personal use while in office, any frank,¹ free pass, free transportation or any rebate or reduction in the rates charged by such company to the general public for like services. For violation of the provision of this section the offend-
2282 ing company shall be liable to such penalties as may be prescribed by law; and any member of the general assembly, or any such officer who shall while in office accept any gift, privilege or benefit as is prohibited by this section, shall thereby forfeit his office and be subject to such further penalties as may be prescribed by law; but this section shall not prevent a street railway company from transporting free of charge any member of the police force or fire department while in discharge of his official duties, nor prohibit the acceptance by any such policeman or fireman of such free transportation. *Const., sec. 161.*

WASHINGTON No railroad or other transportation company shall grant free passes or sell tickets or passes at a discount, other
2283 than as sold to the public generally, to any member of the legislature or to any person holding any public office within the state. *Const., art. xii, sec. 20.*

WISCONSIN No public utility or any agent or officer thereof, or any agent or officer of any municipality constituting a public utility shall offer or give for any purpose to any political committee, or any member or employe thereof, to any candidate for or incumbent of any office or position under the constitution or laws, or under any ordinance of any municipality of the state, or to any
2284 person at the request or for the advantage of all or any of them, any frank or any privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered, or to be produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication or any free product or service whatsoever. *Laws 1907, ch. 499, sec. 1797m-88(1).*

¹ The term "frank" shall be construed to mean any writing or token, issued by, or under authority of, a transmission company, entitling the holder to any service from such company free of charge. The provisions of this article shall always be so restricted in their application as not to conflict with any of the provisions of the Constitution of the United States, and as if the necessary limitations upon their interpretation had been herein expressed in each case. *Const., sec. 161.*

No political committee and no member or employe thereof, no candidate for and no incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality of the state, shall ask for or accept from any public utility, or agent or officer thereof, or any agent or officer of any municipality constituting a public utility, or use in any manner or for any purpose any frank or privilege withheld from any person for any product or service produced, transmitted, delivered, furnished or rendered or to be produced, transmitted, delivered, furnished or rendered by any public utility, or the conveyance of any telephone message or communication. *Same, sec. 1797m-88(2).*

Any violation of any of the provisions of this section shall be punished by imprisonment in the state prison for not more than five years, nor less than one year, or by fine not exceeding \$1,000, nor less than \$200. *Same, sec. 1797m-88(3).*

L. PUBLISHING AND FILING OF LISTS OF PERSONS TO WHOM FREE OR REDUCED RATE OR SPECIAL SERVICE HAS BEEN GRANTED.

ALABAMA Every railroad shall on or before the 1st day of September in each year, and oftener if required by commission, file with commission a verified list of all railroad tickets, passes or mileage books issued free or for other than for actual bona fide money consideration at full established rates during the preceding year ending June 30, together with names of recipients thereof, the amounts received therefor and the reason for issuing the same. This provision shall not apply to the sale of tickets at reduced rates authorized by the law or rates open to the public, nor to tickets, passes or mileage books issued prior to the passage of this act. *Acts 1907, no. 65, sec. 7.*

See also par. 2087.

ARIZONA Every common carrier shall on the first Monday in July of each year, and at such other time as may be required by commission, file with commission a verified list of all tickets, passes, mileage books, franks or reduced rate transportation issued for other than *bona fide* consideration at full established rates during the preceding year, together with names of the recipients thereof, the amount received therefor and the reason for issuing the same. This shall not apply to the sale of tickets at reduced rates open to the public. *Sess. Laws 1912, ch. 90, sec. 17(a)(4).*

IOWA

Every common carrier of passengers shall on or before the first day of February in each year file with the executive council of the state a sworn statement showing the names of all persons within the state to whom during the preceding calendar year it issued, furnished or gave a free ticket, free pass, free transportation or a discriminating reduced rate, except to wage earners of common carriers in their ordinary employment, and families of such wage earners, and disclosing such further information as will enable the council to determine whether the person to whom it was issued was within the exception of this act. *Code 1897, sec. 2157j.*

MAINE

It shall be the duty of all railway corporations within five days of issuance, to file with the secretary of state the name of every federal, state or county or municipal officer, excepting police officers and members of fire departments, to whom free or reduced rate transportation is issued by said corporation, the kind of transportation, the time for which it is good and the reasons for so doing. *Pub. Laws 1907, ch. 153, sec. 2, as amended by Pub. Laws 1911, ch. 43, sec. 2.¹*

It shall be the duty of the secretary of state to keep in a suitable book a record of all such free or reduced rate transportation so issued to any federal, state or county or municipal official which record shall be open at any time during office hours for public examination. *Same.*

MICHIGAN

Every common carrier shall on or before the first day of February, 1910, and annually thereafter, and oftener if required by commission, file with commission a verified list of all free tickets, free passes and free transportation issued or given by it during the year ending December 31, preceding, together with the full names and addresses of recipients thereof and the reason for issuing the same; provided, that this section shall not be deemed to require the filing of the list of such free tickets, free passes and free transportation issued or given by such common carrier to its employes or their families, its officers, agents, surgeons, physicians or attorneys at law and members of their families, or the officers, agents, attorneys and employes of other common carriers and their families, except such list be specially ordered by commission. *Pub. Acts 1909, no. 300, sec. 29(b).*

MISSISSIPPI

Free or reduced rate service is allowed to certain classes of persons on the condition that the railroad shall re-

¹ See par. 2123.

port annually to commission all free passes granted, by whom and for what reason granted. *Code 1906, sec. 4844.*

See also pars. 1828, 2142, 2860.

NEBRASKA

It shall be the duty of railroad corporations and each of them to cause to be filed not later than the tenth day of each month with commission a monthly statement, giving the names and addresses of all persons to whom free tickets, free
2354 passes or free transportation have been given or furnished by said railroad corporation, specifying the kinds of employment in which such persons are engaged and designating under which of the exceptions of law such free tickets, free passes or free transportation have been given or furnished said person. *Cobbey's Annot. Stats. 1909, sec. 10664.*

NEVADA

Every railroad shall on the first Monday in January of each year, and oftener if required by commission, file with commission a verified list of all railroad tickets, passes and mileage books issued free or for other than actual *bona fide* money
2346 consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amount received therefor, and the reason for issuing the same. This provision shall not apply to the sale of tickets at reduced rates open to the public. *Stats. 1907, ch. 44, sec. 19(a), as amended by Stats. 1909, ch. 121.*

NEW HAMPSHIRE Every carrier shall keep a correct list of all passes by it issued, except those issued to its employes and their families, and exchange interstate passes issued under the laws of the United States. Such list shall contain the name of each person to whom a pass is issued and a general description of said pass. A copy of such list for the preceding year, in such form as the attorney general may prescribe, shall be filed with the
2306 attorney general for his use in the month of January in each year and shall be a public record open to public inspection under such regulations as the attorney general may prescribe. Such list, together with the books, records and papers of the carrier so far as relevant shall be open at all times to the inspection of the attorney general, who shall examine the same whenever he deems it necessary to the due enforcement of this act. *Laws 1909, ch. 126, sec. 5.*

OHIO

On the first Monday in February in each year, and oftener if required by commission, each railroad shall file

with commission a verified list of all railroad tickets, passes and mileage books issued free or for other than actual bona fide money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amount received therefor and the reason for issuing them. This provision shall not apply to the sale of tickets at reduced rates open to the public, or tickets, passes or mileage books issued to persons not residents of the state, or tickets, passes or mileage books issued free pursuant to authority conferred in this chapter. *Code 1910, sec. 562.*

OREGON

Every railroad shall on the first Monday in February in each year, and oftener if required by commission, file with commission a verified list of all railroad tickets, passes and mileage books issued free or for other than actual bona fide money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amounts received therefor, mileage thereof, and the reasons for issuing the same. This provision shall not apply to the sale of tickets at reduced rates open to the public, nor to tickets, passes or mileage books issued to persons not residents of this state, nor to tickets, passes or mileage books issued prior to the passage of this act, and commission in its discretion may exempt any carrier from furnishing a statement of trip passes issued to persons regularly and exclusively in its employ, but such carrier shall preserve a record of all such passes, which shall be open to the inspection of commission, for a period of two years after the issuance thereof. *Gen. Laws 1907, ch. 53, sec. 45.*

Commission may in its discretion require to be filed with it by any public utility a list, verified under oath of the president, manager, superintendent or secretary of any public utility, of all free or reduced rate privileges granted by such public utility under the provisions of this section. *Gen. Laws 1911, ch. 279, sec. 63.*

SOUTH DAKOTA

Any person, association, copartnership, common carrier or corporation, issuing or giving any free ticket, pass, frank or privilege permitted to be given by this act, shall on or before the tenth day of July and the tenth day of January of each year, file with commission a statement sworn to by the person or officer, agent, or attorney of the corporation making it, giving a list of all such free tickets, passes, franks or privileges issued or given under the provisions of this act during the six months preceding the first day of the month in which statement is made,

with the date of issue, name of person to whom issued, and kind of free ticket, pass, frank or privilege issued; which statement commission shall include and publish in its annual report. *Sess. Laws 1907, ch. 221, sec. 5.*

See also par. 3076.

TEXAS

Each and all companies, subject to the provisions of this act, their receivers and lessees, shall report annually on such dates as may be fixed by commission the name and residence of each and every person to whom free transportation or right thereto was given to travel, or to have his property or message transported or transmitted over its transportation, express, sleeping car or railway or telegraph or telephone line; and any company violating the provision shall be deemed guilty of a misdemeanor and for each offense on conviction shall pay to the state a penalty of \$1,000. *Laws 1907, ch. 42, sec. 5.*

WISCONSIN

Substantially identical with par. 2268. *Laws 1905, ch. 362, sec. 1797-19(a), as amended by Laws 1907, ch. 582.*

CHAPTER VII

Service

SCOPE NOTE

This chapter includes provisions prescribing that adequate service and facilities be maintained and provided for patrons and utilities, and such grants of power as authorize commissions to render these requirements effective. Provisions establishing by legislative enactment defined service standards or specific facilities, even when enforcement is left to commissions, have been excluded. For provisions incidentally involving questions of service, see ch. iv, on establishment and change of rates. For provisions dealing with through routes for connecting carriers and physical connection between telephone and telegraph companies, see ch. iv, on establishment and change of rates. For provisions defining and prohibiting discrimination in service and facilities, see ch. vi, on discrimination in rates and service. For provisions regulating the safety of service and facilities, see ch. viii, on safety of operation. For provisions authorizing commissions to enter upon the premises of utilities and examine their property and equipment, see ch. ii, on general powers of commissions. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. REASONABLE AND ADEQUATE SERVICE AND FACILITIES REQUIRED.

UNITED STATES It shall be the duty of every common carrier
2272 to provide and furnish transportation upon reasonable request
therefor. *Act to Regulate Commerce, sec. 1.*

All common carriers shall establish, observe, and enforce
just and reasonable classifications of property for transportation,
with reference to which rates, tariffs, regulations, or practices
are or may be made or prescribed, and just and reasonable regula-
tions and practices affecting classifications, rates or tariffs, the
issuance, form and substance of tickets, receipts, and bills of lad-
ing, the manner and method of presenting, marking, packing, and
delivering property for transportation, the facilities for transpor-
2274 tation, the carrying of personal, sample, and excess baggage, and
all other matters relating to or connected with the receiving, hand-
ling, transporting, storing, and delivery of property which may be
necessary or proper to secure the safe and prompt receipt, hand-
ling, transportation, and delivery of property upon just and rea-
sonable terms, and every such unjust and unreasonable classifica-
tion, regulation, and practice with reference to commerce between
the states and with foreign countries is prohibited and declared
to be unlawful. *Same.*

ALABAMA Every transportation company shall furnish
2275 reasonably adequate service and facilities. *Code 1907, sec. 5650.*

ARIZONA, CALIFORNIA

Every public service corporation¹ shall furnish,
provide, and maintain such service, instrumentalities, equipment,
and facilities as shall promote the safety, health, comfort and
2276 convenience of its patrons, employes and the public, and as shall
be in all respects adequate, efficient, just and reasonable. *Ariz.—*
Sess. Laws 1912, ch. 90, sec. 13(b); Cal.—Stats. 1911, 1st. ex.
sess., ch. 14, sec. 13(b).

FLORIDA *See par. 2439.*

GEORGIA *See par. 2440.*

ILLINOIS Every common carrier shall provide and fur-
nish transportation as defined at reasonable rates upon an order
2277 made by commission, upon proper application and proper showing

¹"Public utility," in California.

of the necessity therefor, upon a hearing before said commission.
Revisal 1909, ch. 114, sec. 190.

KANSAS Every common carrier and public utility governed by the provisions of this act shall be required to furnish reasonable, efficient and sufficient service, joint service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such public utility or common carrier. *Laws 1911, ch. 238, sec. 10.*

MARYLAND Every corporation, person, or common carrier performing the services designated shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable. *Laws 1910, ch. 180, sec. 13.*

Every gas and every electrical corporation shall furnish and provide such service, instrumentalities and facilities as shall be reasonably safe and adequate and in all respects just and reasonable. *Same, sec. 31½.*

Every telegraph or telephone company shall provide such service and facilities as shall be adequate, just and reasonable. *Same, sec. 40.*

Commission shall require every telephone company to furnish its patrons reasonably good and adequate service in all respects. *Same.*

MASSACHUSETTS Every street railway company shall furnish reasonable accommodations for the conveyance of passengers, and for every wilful neglect to provide such accommodations shall forfeit not less than \$5 nor more than \$20. *Acts 1906, ch. 463, pt. iii, sec. 96.*

MICHIGAN Every common carrier is required to furnish reasonably adequate service and facilities and shall provide and furnish transportation of passengers and property upon reasonable requests therefor. *Pub. Acts 1909, no. 300, sec. 4(a).*

All persons, firms, associations and corporations doing a telephone business are required to furnish reasonably adequate service and facilities for the use of their lines by the public. *Pub. Acts 1911, no. 138, sec. 3.*

NEBRASKA Every railroad corporation shall give to all persons and associations reasonable and equal terms for the transportation of any merchandise or other property of every kind and description, upon any railroad owned or operated by

such corporations, and for terminal handling the use of the depot and other buildings and grounds of such corporations. *Cobbey's Annot. Stats. 1909, sec. 10553.*

NEVADA Every railroad (and every public utility) is
2287 hereby required to furnish reasonably adequate service and facilities. *Stats. 1907, ch. 44, sec. 3. Stats. 1911, ch. 162, sec. 5.*

NEW HAMPSHIRE The proprietors of every railroad shall furnish to all persons reasonable and equal terms, facilities, and accommodations for the transportation of persons and property over
2288 their railroad, and for the use of depots, buildings and grounds in connection with such transportation, and for the interchange of such traffic at points of connection with other railroads. *Pub. Stats., ch. 159, sec. 1.*

Every railroad corporation and every public utility shall
2289 furnish such service and facilities as shall be reasonably safe and adequate and in all respects just and reasonable. *Laws 1911, ch. 164, sec. 4.*

NEW JERSEY Commission may, after hearing, upon notice, by order in writing, require every public utility to furnish safe,
2290 adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so. *Laws 1911, ch. 195, sec. 17(b).*

No public utility shall adopt, maintain or enforce any regulation, practice or measurement which shall be unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory
2291 or otherwise in violation of law; nor shall any public utility provide or maintain any service that is unsafe, improper or inadequate or withhold or refuse any service which can reasonably be demanded and furnished when ordered by commission. *Same, sec. 18(c).*

NEW YORK Every corporation, person or common carrier performing a service designated, shall furnish, with respect
2292 thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable. *Laws 1910, ch. 480, sec. 26.*

Every gas and every electrical corporation shall furnish and
2293 provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. *Same, sec. 65.*

Every telegraph corporation and every telephone corpora-

2294 tion shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. *Same, sec. 91(1).*

NORTH CAROLINA *See pars. 314, 2456.*

NORTH DAKOTA All persons, corporations and companies doing a public telegraph business shall maintain sufficient wires and equipment to give prompt service and dispatch. All messages
2295 received in any telegraph office within the state must be delivered promptly if it is within the power of a telegraph company to locate the party to whom the message is addressed. *Laws 1907, ch. 246, sec. 1.*

Any person, company or corporation or any agent of the same who shall violate any of the provisions of this act shall be subject to a fine of not less than \$100 nor more than \$500 for
2296 each offense, and shall also be liable to the sender or receiver of the message on which violation was made, for all damages resulting from such delay and the criminal procedure is hereby made applicable for collecting fines under this act. *Same, sec. 4.*

OHIO Each railroad shall furnish reasonably adequate
2297 service and facilities. *Code 1910, sec. 504.*

Every public utility shall furnish necessary and adequate
2298 service and facilities which shall be reasonable and just. *Laws 1911, no. 325, sec. 14.*

Every public utility shall furnish and provide with respect
2299 to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. *Same, sec. 15.*
See also pars. 1006, 1007, 1359.

OREGON Every railroad is hereby required to furnish
2300 reasonably adequate service, equipment and facilities. *Gen. Laws 1907, ch. 53, sec. 12.*

2301 Every public utility is required to furnish adequate and safe service, equipment and facilities. *Gen. Laws 1911, ch. 279, sec. 7.*

RHODE ISLAND Every railroad corporation shall furnish reasonable and proper facilities and accommodations on the line of
2302 its road, within its limits, for the transportation of passengers and merchandise. *Gen. Laws 1909, ch. 215, sec. 11.*

2303 Every public utility is required to furnish safe, reasonable and adequate service and facilities. *Acts 1912, ch. 795, sec. 38.*

SOUTH CAROLINA Every railroad corporation shall furnish reasonable accommodations for the convenience and safety of passengers; and every wilful neglect to provide the same shall forfeit not less than \$5 nor more than \$20, to be recovered in an action against such corporation. *Gen. Stats. 1902, sec. 2157.*

VERMONT Every company shall be required to furnish reasonably adequate service, accommodation and facilities to the public. *Laws 1908, no. 116, sec. 11.*

WASHINGTON Every common carrier shall construct, furnish, maintain and provide safe, adequate and sufficient service facilities, trackage, sidings, railroad connections, industrial and commercial spurs and equipment to enable it to promptly, expeditiously, safely and properly receive, transport and deliver all persons or property offered to or received by it for transportation, and to promote the safety, health, comfort and convenience of its patrons, employees and the public. *Laws 1911, ch. 117, sec. 9.*

All rules and regulations issued by any common carrier affecting or pertaining to the transportation of persons or property shall be just and reasonable. *Same.*

Every gas, electrical and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable. *Same, sec. 26.*

All rules and regulations issued by any gas, electrical or water company affecting or pertaining to the sale or distribution of its products, shall be just and reasonable. *Same.*

Every gas, electrical and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public. *Same.*

The service to be rendered any person, firm or corporation by any telephone or telegraph company shall be rendered and performed in a prompt, expeditious and efficient manner and the facilities, instrumentalities and equipment furnished by it shall be safe, kept in good condition and repair, and its appliances, instrumentalities and service shall be modern, adequate, sufficient and efficient. *Same, sec. 35.*

Every telephone and telegraph company shall provide and maintain suitable and adequate buildings and facilities therein, or connected therewith, for the accommodation, comfort, and convenience of its patrons and employees. *Same.*

Every wharfinger or warehouseman shall furnish and supply such wharves, docks, buildings, service, instrumentalities and facilities as shall be safe, adequate and efficient and in all respects just and reasonable. All rules and regulations issued by
2313 any wharfinger or warehouseman affecting or pertaining to the dockage, storage, handling and care of property shall be just and reasonable. Every wharfinger and warehouseman shall construct and maintain such facilities in connection with his warehouse, wharf, dock and structure as will be efficient and safe to its employees and the public. *Same, sec. 46.*

WISCONSIN Identical with par. 2287. *Laws 1905, ch. 362, 2314 sec. 1797-3. Laws 1907, ch. 499, sec. 1797m-3.*

B. REQUIREMENT THAT UTILITIES SERVE APPLICANTS.

UNITED STATES *See par. 2273.*

CONNECTICUT If any water, gas, electric, or telephone company¹ shall unreasonably fail or refuse to furnish adequate service at reasonable rates to any person within the territorial limits within which such company has, by its charter, authority to furnish such service, such person may bring his written petition to commission alleging such failure or refusal. Thereupon commission shall fix a time and place for a hearing upon such petition, and shall mail notice thereof to the parties in interest at least one week prior to such hearing. Upon said hearing commission may,
2316 if it finds that such company has unreasonably failed or refused to furnish such person with adequate service at reasonable rates, prescribe the service to be furnished by such company to such person and the conditions under which, and maximum rates or charges at which, such service shall be furnished. Such company shall thereafter furnish such service to such person in accordance with the conditions so prescribed and shall not thereafter demand or collect any rate or charge for such service in excess of the maximum rate or charge so prescribed. *Pub. Acts 1911, ch. 128, sec. 24.*

See also par. 2338.

LOUISIANA Commission may require and compel telegraph and telephone companies and corporations and all persons en-

¹Section 24 of chapter 128 of Public Acts 1911, requiring a telephone company to furnish adequate service at reasonable rates, shall be so construed as to include telephone exchange areas. *Pub. Acts 1911, ch. 266, sec. 1.*

gaged in doing a telegraph or telephone business to establish telegraph offices or public telephone stations along existing lines, wherever the same may be reasonably necessary and convenient, 2316 for the purpose of receiving and delivering messages and conversation to be transmitted by telegraph or telephone and may require and compel telegraph and telephone companies and corporations, and persons engaged in such business, to deliver promptly all messages to be sent or transmitted by them. *Stats. 1908, no. 199, sec. 2.*

MASSACHUSETTS Upon the petition in writing of any person who has a residence or place of business in a city or town in which a corporation or company is engaged in the manufacture or sale of gas or electricity for light, heat or power and who is aggrieved by the refusal or neglect of such corporation or company to supply him with gas or electricity, commission may, after notice to the corporation or company to appear at a time and place therein 2317 named to show cause why the prayer of such petition should not be granted, issue an order directing and requiring the corporation or company engaged in the manufacture and sale of gas to supply the petitioner with gas for any of said purposes, or the corporation or company engaged in the manufacture and sale of electricity to supply the petitioner with electricity for any of said purposes, upon such terms and conditions as are legal and reasonable. *Rev. Laws 1902, ch. 121, sec. 33.*¹

A person or corporation owning, controlling or operating a telephone exchange or service in this commonwealth shall, upon application of an individual or corporation and the tender of the charges or rental usual or customary for the class of service required, without discrimination for the same class of service rendered, furnish such individual or corporation with the use of a telephone and telephone service and connection with their respective 2318 exchanges and the subscribers thereto, if the applicant secures the rights necessary to make the connections applied for and pays to the telephone company in advance an amount sufficient to cover the actual cost of the extension, if said extension is more than one mile from any main exchange circuit of the said telephone company. *Acts 1906, ch. 433, sec. 13.*
See also par. 2339.

MISSISSIPPI A telegraph or telephone company shall deliver all messages addressed to a person residing or having a place of busi-

¹See footnote 1, par. 276.

ness in any city, town, or village where it may have an office, or within one mile of its office; and if any telegraph or telephone company shall receive any message or matter for transmission, 2319 and shall fail, neglect or refuse, without good and sufficient reason, to transmit correctly or deliver the same within a reasonable time to the person addressed, such person or the person injured, shall be entitled to recover of the company in default the sum of \$25 in addition to the damages for any injury. *Laws 1908, ch. 76, sec. 1.*

A telegraph or telephone company shall transmit all written messages between points where it may have offices within the state, and if the telegraph or telephone company shall receive any message or matter at one of its offices in this state for transmission to a person addressed at a point where it has an office in the state, and shall fail, neglect or refuse, 2320 without good and sufficient reason, to transmit the same in a reasonable time to the office at the place of the person addressed, such person or the person injured shall be entitled to recover of the company in default the sum of \$15 in addition to damages for any injury. But this section shall not apply to offices of telephone and telegraph companies in towns of less than 1,000 inhabitants where the telephone or telegraph companies do not employ and control the operator. *Laws 1908, ch. 78, sec. 1.*

NEBRASKA All telegraph companies and associations operating telegraph lines in this state shall transmit and forward all dispatches directed to newspapers, or private individuals, or public officers with impartiality, in the order in which 2321 they are received, and use due diligence in their delivery without discrimination as to any person or party to whom they may be directed. *Cobbey's Annot. Stats. 1909, sec. 11954.*

Every officer or employe of any telegraph company or association engaged in the transmission of dispatches who shall wilfully delay the transmission or delivery of any dispatch, or divulge the contents of any dispatch entrusted to his or her 2322 care, to any person except the party entitled to receive the same, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50 nor more than \$100 for each offense, or imprisonment of not less than 30 days nor more than three months in the county jail, at the discretion of the court. *Same, sec. 11955.*

If any telegraph company, association or organization engaged in the transmission of telegraph dispatches from any

place in this state, or the person having the control and management thereof, refuse to receive dispatches from any person, corporation, or any other telegraph company, or to transmit
2223 the same with fidelity and without unreasonable delay, it shall be guilty of a misdemeanor, and upon conviction shall be fined for each and every offense in the sum of not less than \$50 nor more than \$100, and in addition be liable for damages to the person or corporation sustaining a loss by reason of such refusal or failure to so transmit. *Same, sec. 11960.*

NEW YORK

See par. 2341.

NORTH DAKOTA All messages left at the office of any telegraph office or the office of any railroad station where public service is maintained must be transmitted promptly, providing said mes-
2224 sage is prepaid by the sender. In no case must a message remain at the telegraph office or station unsent more than 30 minutes, except in case of accident to the lines, such as broken wire or during severe storms. *Laws 1907, ch. 246, sec. 2.*

OREGON

If any agent, operator, or employe, in any telegraph office, shall unreasonably and wilfully refuse or neglect to send any message received at such office for transmission, or shall unreasonably or wilfully postpone the same out of its order, or shall unreasonably and wilfully refuse or neglect to deliver any message received by telegraph, the person so offending shall be deemed guilty of a misdemeanor, and may be punished by a fine not to exceed \$500, or imprisonment not to exceed six months, or by both such fine and imprisonment, in the discretion of the court;
2225 provided, that nothing herein contained shall be construed to require any message to be received, transmitted, or delivered, unless the charges thereon shall have been paid or tendered, nor to require the sending, receiving, or delivery of any message counseling, aiding, abetting, or encouraging treason against the government of the United States or of this state, or other resistance to the lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime. *Gen. Laws 1862, p. 919, sec. 11.*

VERMONT

A person or corporation owning, controlling or operating a telephone exchange or service, on application of a person or corporation and tender of the charges or rental sum, usual or customary for the class of service required, without

discrimination for the same class of service rendered, shall furnish the person or corporation so applying with the use of a telephone and telephonic service and connection with their respective changes and subscribers thereto; provided, that such person or corporation secure the rights necessary to make the connections applied for and pays the telephone company in advance a sufficient sum to cover the actual cost of the extension, if such extension is beyond one mile from a main exchange circuit of such telephone company. *Pub. Stats. 1906, sec. 4872.*

VIRGINIA

See par. 2343.

WASHINGTON

Every gas, electrical or water company engaged in the sale and distribution of gas, electricity or water, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity and water as demanded. *Laws 1911, ch. 117, sec. 33.*

Every telephone company shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded. *Same, sec. 35.*

Statutes in a number of states declare the duty of public utilities of various kinds to serve persons who apply for service of the kind which is professed.

Railroads and other common carriers: *MICHIGAN—Comp. Laws 1897, sec. 6235; MISSOURI—Rev. Stats. 1909, sec. 3107; WASHINGTON—Laws 1911, ch. 117, sec. 10.*

Terminal Companies: *NEW YORK—Laws 1911, ch. 778, sec. 155.*

Wharfingers and Warehousemen: *WASHINGTON—Laws 1911, ch. 117, sec. 52.*

Express Companies: *ILLINOIS—Revisal 1909, ch. 114, sec. 373; IOWA—Code 1897, sec. 2165(f); MISSOURI—Rev. Stats. 1909, sec. 3288c; SOUTH DAKOTA—Sess. Laws 1909, ch. 159, secs. 2, 7.*

Pipe Line Companies: *KANSAS—Gen. Stats. 1909, secs. 3062, 3065; NEW YORK—Laws 1909, ch. 219, sec. 50; OKLAHOMA—Const., art. 9, sec. 4.*

C. PAYMENT OF PRICE AS IT AFFECTS DUTY TO SERVE.

ARIZONA

See par. 2382.

CALIFORNIA

See par. 2385.

CONNECTICUT

See par. 2338.

ILLINOIS

The payment of charges of express companies or carriers by express may be demanded and received in advance of such forwarding or transportation, not in excess of the rates of charges shown in the tariffs or schedules and classification provided for in this act. *Revisal 1909, ch. 114, sec. 373.*

MASSACHUSETTS A gas or electric light company may stop gas or electricity from entering the premises of any person who refuses to pay the amount due therefor or for the use of the meter or any other article hired by him from such company; and, for such purpose, the officers, servants or workmen thereof may, **2331** after 24 hours' notice, enter his premises between the hours of eight in the forenoon and four in the afternoon and separate and take away such meter or other property of the company, and may disconnect any meter, pipe, wires, fittings or other works, whether they are the property of the company or not, from the mains, pipes or wires of the company. *Rev. Laws 1902, ch. 58, sec. 16.*

A gas or electric light company shall not refuse to supply gas or electricity for any building or premises to a person applying **2332** therefor who is not in arrears to it for any gas or electricity previously supplied to him because a bill for gas or electricity remains unpaid by a previous occupant of such building or premises. *Same, sec. 17.*

A corporation which, being engaged in selling or distributing water, refuses or neglects to furnish or supply water to or for any building or premises for the reason that a water bill remains unpaid by a previous owner or occupant of said building or **2333** premises shall, unless the person applying for water is in arrears to such corporation for water previously furnished to or for said building or premises, or to or for any other building or premises, be punished by a fine of not less than \$10 nor more than \$20. *Acts 1898, ch. 168, sec. 10.*

See also pars. 2318, 2339.

NEW YORK Upon the application, in writing, of the owner or occupant of any building or premises within 100 feet of any main laid down by any gas light corporation, or the wires of any electric light corporation, and payment by him of all money due from him to the corporation, the corporation shall supply gas or electric light as may be required for lighting such building or premises, notwithstanding there be rent or compensation in arrears for gas or electric light supplied, or for meter, wire, pipe or fittings, furnished to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same; and if for the space of ten days after such application, and the deposit **2334** of a reasonable sum as provided in the next section, if required,

the corporation shall refuse or neglect to supply gas or electric light as required, such corporation shall forfeit and pay to the applicant the sum of \$10 and the further sum of \$5 for every day thereafter during which such refusal or neglect shall continue; provided, that no such corporation shall be required to lay service pipes or wires for the purpose of supplying gas or electric light to any applicant where the ground in which such pipe or wire is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay the cost of his portion of the pipe or wire required to be laid, and the expense of laying such portion. *Laws 1909, ch. 219, sec. 62.*

Every gas light and electric light corporation may require every person to whom such corporation shall supply gas or electric light for lighting any building, room or premises, to deposit with such corporation a reasonable sum of money according to the number and size of lights used or required, or proposed to be used, for two calendar months, by such person, and the quantity of gas and electric light necessary to supply the same, as security for the payment of the gas and electric light rent or compensation for gas consumed, or rent of pipe or wire and fixtures, to become due to the corporation, but every corporation shall allow and pay to every such depositor legal interest on the sum deposited for the time his deposit shall remain with the corporation. *Same, sec. 63.*

See also par. 2341.

NORTH DAKOTA *See par. 2324.*

OREGON *See par. 2325.*

VERMONT *See par. 2326.*

VIRGINIA *See par. 2343.*

D. TELEPHONE COMPANIES REQUIRED TO SERVE TELEGRAPH COMPANIES.

CONNECTICUT, MASSACHUSETTS

Every person or corporation owning, controlling or operating a telephone exchange or service, shall, on application of any telegraph company, furnish such company with the use of a telephone or telephones, and telephone service, and connection with their respective exchanges and the subscribers

thereto, without discrimination between telegraph companies as to such connections, service, or use of instruments furnished, or charges therefor, for the same class of service. *Conn.—Gen. Stats. 1902, sec. 3915; Mass.—Rev. Laws 1902, ch. 122, sec. 12.*

E. TELEPHONE AND TELEGRAPH COMPANIES REQUIRED TO SERVE CONNECTING UTILITIES OF THE SAME KIND.¹

ARIZONA, CALIFORNIA

Every telephone and every telegraph corporation operating in this state, shall receive, transmit and deliver, without delay or discrimination, the conversations and messages
2337 of every other telephone or telegraph corporation with whose line a physical connection may have been made. *Ariz.—Sess. Laws 1912, ch. 90, sec. 22(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 22(b).*

CONNECTICUT Telegraph or telephone companies shall receive dispatches for any person, and for other telegraph or telephone lines, and shall transmit them in the order in which they are received, on payment of their usual charges, under the penalty
2338 of \$100 for every neglect so to do, to be recovered with costs by the party aggrieved; but arrangements may be made with publishers of newspapers for the transmission of news out of its general order; and all communications for officers of justice shall take precedence of all other dispatches. *Gen. Stats. 1902, sec. 3912.*

MASSACHUSETTS A telegraph company shall receive despatches from and for other telegraph companies and associations, and from and for any person; and, upon payment of the usual charges
2339 for transmitting dispatches according to the regulations of the company, shall transmit them faithfully and impartially. *Rev. Laws 1902, ch. 122, sec. 9.*
See also par. 1754.

NEBRASKA *See par. 2323.*

NEW MEXICO All telephone and telegraph lines operated for
2340 hire shall receive and transmit each other's messages without delay or discrimination. *Const., art. xi., sec. 16.*

¹ See also pars. 1185-1204.

NEW YORK

Every telegraph or telephone corporation shall receive dispatches from and for other telegraph or telephone lines or corporations, and from and for any individual, and on payment of the usual charges by individuals for transmitting dispatches as established by the rules and regulations of such corporation, transmit the same with impartiality and good faith and **2341** in the order in which they are received, and if it neglects or refuses so to do, it shall pay \$100 for every such refusal or neglect to the person or persons sending or desiring to send any such dispatch and entitled to have the same so transmitted, but arrangements may be made with the proprietors or publishers of newspapers for the transmission for publication of intelligence of general and public interest out of its regular order. *Laws 1909, ch. 219, sec. 103.*

OKLAHOMA

All telephone and telegraph lines, operated for hire shall each, respectively, receive and transmit each other's **2342** messages without delay or discrimination. *Const., art ix., sec. 5.*

VIRGINIA

It shall be the duty of every telephone company doing the business of transmitting and receiving messages for compensation in this state to receive dispatches and messages from and for other telephone or telegraph companies or lines doing the business of receiving and transmitting messages for compensation, and from and for any person; and upon the payment of the established charges therefor, if demanded, to transmit the same faithfully and impartially, and as promptly as practicable, and in the order of delivery to the said company. For every failure to transmit a dispatch or message faithfully and impartially, and for every failure to transmit a dispatch or **2343** message as promptly as practicable, or in the order of its delivery to the company, the company shall forfeit the sum of \$100 to the person sending or wishing to send such dispatch or message; provided, however, not more than one recovery shall be had on one dispatch or message, and the recovery by one party entitled thereto shall be a bar to the recovery of the other party. But nothing herein shall prevent any such company from giving preference to dispatches or messages on official business from or to officers of the United States or the state of Virginia, or from making arrangements with proprietors or publishers of newspapers for the transmission to them for publication of intelligence of general and public interest out of its regular order. *Pollard's Code 1904, sec. 1294h.*

WASHINGTON Every telephone or telegraph company operating in this state shall receive, transmit and deliver, without discrimination or delay, the messages of any other telephone or telegraph company. *Laws 1911, ch. 117, sec. 45.*

F. RAILROAD, EXPRESS AND TELEGRAPH COMPANIES REQUIRED TO HAVE TELEPHONE FACILITIES.

KANSAS Every railway company, express company and telegraph company shall furnish reasonably adequate telephone connections between its offices, buildings and grounds, and the public telephone exchanges operated in the towns where the same are located. *Laws 1911, ch. 136, sec. 1.*

Commission may require and compel the furnishing of such service. Upon complaint to commission that any telephonic service with any railroad, telegraph or express company's, buildings, offices or grounds is inadequate or in any respect unreasonably or unjustly discriminatory or that such service cannot be had, commission shall investigate the same, and if upon investigation commission shall find that any telephonic service is inadequate or unreasonably or unjustly discriminatory or that such service cannot be had, it shall determine and by order fix a reasonable regulation, practice or service to be installed, imposed, observed and operated in the future. *Same, sec. 2.*

Any common carrier which shall fail to comply with the order of commission in respect thereto shall be deemed guilty of a misdemeanor and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than \$100 nor more than \$500 within the discretion of the court. *Same, sec. 3.*

NEBRASKA Provisions identical with pars. 2345, 2346. *Cobbey's Annot. Stats. 1909, secs. 10665 x 5, 10665 x 6.*

Any common carrier which shall fail to comply with the order of commission in respect thereto shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than \$100 nor more than \$500 or be imprisoned in the county jail not less than ten days nor more than 30 days or both within the discretion of the court. *Same, sec. 10665 x 7.*

NORTH DAKOTA Every railroad corporation or common carrier shall provide, furnish and maintain in all of their freight and ticket

2350 offices in all towns, cities and villages in this state, where there is a local telephone exchange and where such service is available, reasonable and adequate telephone connections for the use and benefit of its patrons. *Laws 1911, ch. 252, sec. 1.*

Any railroad corporation or common carrier violating the provisions of this act shall be fined not less than \$100 nor more **2351** than \$200 for each offense, and it shall be the duty of the state's attorney upon orders from commission or upon complaint of any citizen, to commence and prosecute all actions necessary for the enforcement of this act. *Same, sec. 2.*

VERMONT

Every railroad corporation shall grant to every person, firm, joint stock company or corporation operating a public telephone line in the state and having at least 500 telephone connections, equal and reasonable terms, arrangements and facilities for the installation of telephone instruments on the lines, or connected with the telephone system of such person, firm, joint **2352** stock company or corporation, in all depots, station houses or offices of such railroad corporation in the state. A railroad corporation that violates the provisions of this section shall be fined not more than \$1,000 and shall be further liable in an action on this statute for damages to the party injured thereby; but the provisions of this section shall not apply to street railways. *Pub. Stats. 1906, sec. 4489.*

VIRGINIA

Every railroad company having a ticket office or freight office in any city or town where there are, at the time, one or more public telephone exchanges, or at any place where **2353** telephone connection may be had, on reasonably moderate terms, with one or more telephone exchanges not more than 25 miles distant from such place, shall constantly maintain in each of such offices, direct telephone connection with each of such exchanges. *Laws 1906, ch. 298, sec. 1.*

Nothing herein contained shall be construed to require such railroad company to build a telephone line, it being intended to require such company to put telephones in its offices where it can **2354** obtain them as they may be obtained for other business offices in the same vicinity; such railroad company shall cause to be promptly answered all calls made over such telephone connection during business hours. *Same.*

Through such telephone connection, such railroad company shall cause prompt and correct replies to be made to all reason- **2355** able and proper inquiries received over such connection during

business hours, concerning the passenger or freight service of such road. *Same.*

WISCONSIN

Every railroad company shall furnish reasonably adequate telephonic connection with its offices, buildings and grounds. *Laws 1907, ch. 614, sec. 17978-1.*

Upon complaint to commission that any telephonic service with any railroad is inadequate or in any respect unreasonably or unjustly discriminatory or that such service cannot be had commission shall investigate the same and if upon investigation commission shall find that any telephonic service is inadequate or unreasonably or unjustly discriminatory or that such service cannot be had it shall determine and by order fix a reasonable regulation, practice or service to be installed, imposed, observed and followed in the future. *Same, sec. 17978-2.*

All orders made by commission under the provisions of this act shall have the same force and effect and an action may be commenced to vacate and set aside the same, as provided in chapter 362, laws of 1905. *Same, sec. 17978-3.*

G. JOINT USE OF PLANT, EQUIPMENT AND FACILITIES.

ARIZONA, CALIFORNIA

Whenever commission, after a hearing had upon its own motion or upon complaint of a public service corporation¹ affected, shall find that public convenience and necessity require the use by one public service corporation¹ of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public service corporation,¹ and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment or in any substantial detriment to the service, and that such public service corporations¹ have failed to agree upon such use or the terms and conditions or compensation for the same, commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public service corporation¹ to whom the use is permitted shall be liable to the owner or other users of such conduits, subways, tracks, wires, poles, pipes, or other equipment for such damage as may result therefrom to

¹ "Public utility," in California.

the property of such owner or other users thereof. *Ariz.—Sess. Laws, 1912, ch. 90, sec. 41; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 41.*

CONNECTICUT¹ When two or more street railway companies are operating in the same city or town, upon application of any one of such companies the superior court or any judge thereof may, in its or his discretion, whenever public convenience and necessity require, authorize such company to run its cars over the tracks of any other of such companies for a distance not exceeding one-half mile; and in case the only approach to any city or town upon a particular side is by means of a bridge or causeway, or both, for a greater distance than one-half mile, such court or judge may authorize any suburban railway company whose railway
2360 approaches such city or town upon such side, to use the tracks of any other company crossing each bridge or causeway, or both, from the place where such railways meet to some central point in such city or town, upon such terms as to manner of use, and upon the payment of such compensation, as such court or judge may deem just; and such a court or judge may change or revoke such authorization upon the application of either company. No such company shall be allowed to use the tracks of another company unless the length of track actually owned and operated by the first company exceeds the length of track to be so used. *Gen. Stats. 1902, sec. 3853.*

IOWA All persons, firms or corporations now or hereafter owning or operating electric street railways in any city (including cities organized under special charter) or town, are hereby authorized and required to permit the use for interurban business only but not for local street railway business, of such of their terminals, tracks, poles and wires as are located in the streets, alleys and public places of said cities and towns, and such portions of their tracks, poles and wires as may cross property owned by said street railway companies in such cities and towns, by the passenger and combination baggage cars of interurban railway companies, for the transportation of passengers, mail, express and baggage; and said street railways shall furnish to said

¹ Commission shall have power, after notice to the corporations interested and public hearing, to require any public service corporation or corporations maintaining a line or lines of poles and wires in this state to change the location of such poles and wires in the public highways whenever public convenience or necessity requires such change and, in case two or more corporations are using or maintaining lines of poles or wires in the same street, to require the wires of such corporations to be strung upon one or more lines of poles to be owned and maintained by the corporations using the same as said commission shall determine. *Pub. Acts 1911, ch. 230, sec. 1.*

Any corporation failing to comply with any such order shall be liable to the penalties provided in sec. 35 of chapter 128 of the public acts of 1911. *Same.*

interurban railways, electric power for the operation of their cars and the transaction of their said business in said cities and towns, as to said tracks so furnished; but said street railways shall not be required to furnish electric power except during such hours as their street railway cars may be in operation; nor shall
2361 they be required to furnish such power where they have not power houses and machinery sufficient therefor; and they shall have the preference in the use of their own tracks and power so that their own cars shall not be delayed in transit; nor shall they be required to furnish car houses or car barns or access thereto. Said interurban railways shall pay a reasonable compensation for the privileges and power that may be furnished them as above mentioned under this act. If an agreement for the use of the facilities so furnished and the compensation for the same cannot be made between the interested parties, the question as to the amount of such compensation and the conditions under which said facilities shall be furnished, used and operated, shall be heard and determined by the commission on petition to the said commission by either party to the controversy, ten days' notice in writing of such petition being served upon the opposite party; and any order entered by said commission, or court upon appeal, shall be subject to modification or review from time to time, upon notice being given as herein provided. *Code 1897, sec. 2110c.*

Each party to the proceeding shall have the right to appeal to the district court of the county where the street railway in question is located from any order made by commission under this act, which appeal shall be taken 20 days from the date of the order appealed from, and shall be perfected by serving a notice of appeal upon the other parties to such proceeding and filing the same with the secretary of commission, and by filing within 20 days from the date of such order, a petition in the said district court, stating the facts and asking the court to determine the matter in controversy. Commission shall, when such notice of appeal is filed with the secretary, forthwith certify to said district court a transcript of the papers and proceedings before commission, and its order thereon. The court, or a judge thereof, if the petition is filed in vacation, shall thereupon appoint a commissioner to examine into the necessity of such proceeding, and report the facts and his recommendation in such time as the court or judge may direct, and as soon as possible thereafter the court or judge shall appoint a time and place for the hearing
2362 of such petition. The proceeding shall be in equity and subject

to all the rules of equity practice, except that the court shall require the issues to be made up at the first term after petition is filed and give the proceedings precedence over other civil business and try the same thereat if possible. The action shall be triable *de nova* upon said appeal, except that the question for compensation for the tracks, tolls, wires, terminals and power to be furnished shall first be tried to a jury in the same manner and with the same effect as jury trials in ordinary proceedings, and the jury shall assess, separately, compensation for power to be furnished, on such bases as the court shall direct. No such appeal shall suspend the order appealed from if the interurban railway company on whose behalf said order is made shall file such bonds for the payment of damages in courts as the district court to which such appeal is taken, or a judge thereof, may order and require. In all cases payment of the compensation awarded shall be made or secured to be made as commission or court may order and require before the interurban company desiring the use of the same shall be entitled thereto. *Same, sec. 2110d.*

KANSAS

See par. 2278.

MAINE

Whenever any railroad passenger station shall be erected or maintained in any city or town in this state, any railroad corporation having or using a track or passenger station within such city or town shall have the right to run its passenger trains to and from such station, over any railroad track or tracks leading thereto as herein provided, and to use the same for the purpose of delivering and receiving through passengers, under such reasonable terms and regulations, and over such tracks as **2262** may be agreed upon by the owner of such station, the railroad whose tracks are used in running to and from the same, and the railroad corporation so desiring its use for said purpose, and in case of disagreement, upon petition, notice and hearing thereon, the railroad commissioners shall fix and determine such terms, tracks and regulations. No corporation which shall deny, in any proceedings, the authority of commission to proceed and make the determination as herein provided, or which shall refuse to abide by its decision rendered therein, shall avail itself of the provisions of this section. *Rev. Stats. 1903, ch. 51, sec. 60.*

No corporation or person shall be permitted to construct or maintain any railroad for similar purposes over the street, roads or ways that may be lawfully occupied by a street railroad in

any city or town, but any person or corporation lawfully operating
2364 any street railroad to any point to which the tracks of any other street railroad extend, may enter upon, connect with and use the same, on such terms and in such manner as may be agreed upon between the parties, or if they shall not agree, to be determined by commission upon application, notice and hearing therefor. *Rev. Stats. 1903, ch. 53, sec. 21.*

MASSACHUSETTS If one railroad corporation occupies or uses, or has a right to occupy, enter upon and use, a station, railroad or grounds of an other, or any portion thereof, railroad commission upon petition of either party, and after notice to the other and a hearing shall determine the compensation to be paid for such occupancy and use. Its award shall be binding upon the parties
2365 thereto for five years and thereafter until it is revised or altered by said commission and upon the request in writing of a party affected thereby, filed within 30 days after the rendering thereof, the award shall be filed in the supreme judicial court which shall have jurisdiction to revise the same as if the award had been made by a commission appointed by said court. *Acts 1906, ch. 463, pt. ii, sec. 140.*

If a railroad constructed after April 8, 1872, meets another railroad which passes through the same city or town, the corporation by which either of said railroads is owned may, with the written consent of railroad commission and upon such terms as said commission upon hearing prescribes, enter its railroad upon, unite the same with and use the railroad of the other; and if a railroad corporation whose railroad was con-
2366 structed prior to said day is specially authorized to enter its railroad upon, unite the same with and use the railroad of another corporation, each of such corporations may enter upon, unite its railroad with and use the railroad of the other; but no locomotive engine or other motive power which is not owned and controlled by the corporation owning or lawfully operating the railroad shall be allowed to run upon a railroad except with the consent of such corporation. *Same, sec. 205.*

A street railway company¹ may permit another street railway company to operate cars over its tracks to such extent and under
2367 such rules and regulations as railroad commission shall determine to be consistent with public safety. *Acts 1906, ch. 463, pt. iii, sec. 36.*

¹ In the two preceding sections the word "company" or "companies" shall include every person, partnership, association, corporation and municipality engaged in the sale of incandescent electric light or electricity for incandescent lighting. *Rev. Laws 1902, ch. 121, sec. 38.*

Railroad commission may, upon the petition of a street railway company or of any interested party, after notice and a public hearing, determine the reasonable conditions which shall govern the interchange of traffic and cars between street railway companies, and may, wherever it is reasonable and consistent with the public interest, order a street railway company to receive and convey over its tracks the cars of another such company at such times and over such routes and upon such terms, including reasonable compensation, as commission may prescribe: provided, however, that a street railway company shall have control of and responsibility for the management and operation of all cars while upon its railway as fully as if it owned them. Said commission may also recommend such joint rates, fares and charges, as are consistent with the provisions of any special charter of any street railway company, specifying at the same time and in every instance the part of the joint rate, fare or charge to which each street railway company affected thereby shall be entitled, and may make such other recommendations as seem appropriate to the circumstances of each particular case. The supreme judicial court or the superior court shall have jurisdiction in equity to enforce any orders made by said commission under the provisions of this act. *Acts 1911, ch. 487, sec. 1.*

MICHIGAN Hereafter it shall be unlawful without the specific permission of commission for any two or more express companies, doing business in this state, to maintain in any city or village a joint office or to employ the same person to act as joint agent for the said companies; provided, that the provisions of this section shall not apply to offices maintained at railroad stations or junction points for the receipt and forwarding of express matter. *Pub. Acts 1911, no. 273, sec. 3.*

NEW HAMPSHIRE No railroad corporation shall be required to allow the use of any motive power other than its own, upon its railroad. *Pub. Stats. ch. 157, sec. 11.*

OHIO Every public utility having any equipment on, over or under any street, or highway, shall, subject to the provisions of section 9103 of the general code, for a reasonable compensation permit the use of the same by any other public utility whenever commission shall determine as provided in section 32 hereof that public convenience, welfare and necessity require such use, or joint use, and such use or joint use will not result in irreparable injury to the owner or other users of such equipment,

nor in any substantial detriment to the service to be rendered by such owners or other users. *Laws 1911, no. 325, sec. 31.*

2373 In case of failure to agree upon such use or joint use or the conditions or compensation for such use or joint use, any public utility may apply to commission, and if after investigation commission shall ascertain that the public convenience, welfare and necessity require such use or joint use and that it would not result in irreparable injury to the owner or other users of such property or equipment, nor in any substantial detriment to the service to be rendered by such owner or other users of such property or equipment, said commission shall by order direct that such use or joint use be permitted and prescribe reasonable conditions and compensations for such joint use. *Same, sec. 32.*

2375 Such use or joint use so ordered shall be permitted and such conditions and compensations so prescribed shall be the lawful conditions and compensation to be observed, followed and paid, subject to recourse to the courts by any interested party as provided in this act. Any such order made by commission may be revoked or from time to time revised by commission. *Same, sec. 33.*

OREGON

Every public utility, and every person, association or corporation having conduits, subways, street railway tracks, poles or other equipment on, over or under any street or highway shall for a reasonable compensation permit the use of the same by any public utility whenever public convenience or necessity require such use and such use will not result in irreparable injury to the owner or other users of such equipment nor in any substantial detriment to the service to be rendered by such owners or other users. *Gen. Laws 1911, ch. 279, sec. 8.*

2376 In case of failure to agree upon such use or the conditions or compensation for such use any public utility or any person, association or corporation interested may apply to commission, and if after investigation commission shall ascertain that public convenience or necessity require such use and that it would not result in irreparable injury to the owner or other users of such equipment, it shall by order direct that such use be permitted and prescribe reasonable conditions and compensation for such joint use. *Same.*

Such use so ordered shall be permitted and such conditions and compensation so prescribed shall be the lawful conditions and compensation to be observed, followed and paid, subject to recourse to the courts upon the complaint of any interested party

as provided in sections 54, 55, 56, 57 and 58 hereof, inclusive, and such sections so far as applicable shall apply to any such suit arising
2376 on such complaint so made. Any such order of commission may be from time to time revised by commission upon application of any interested party or upon its own motion. All public utilities shall afford all reasonable facilities and make all necessary regulations for the interchange of business, or traffic carried or their product between them, when ordered by commission so to do. *Same.*

WASHINGTON Whenever any order of commission shall require joint action by two or more public service companies, such order shall specify that the same shall be made at their joint cost, and the companies affected shall have 30 days, or such further time as commission may prescribe, within which to agree upon the part or division of cost which each shall bear, and costs of operation and maintenance in the future, or the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations. If at the expiration of
2377 such time such companies shall fail to file with commission a statement that an agreement has been made for the division or apportionment of such cost, the division of costs of operation and maintenance to be incurred in the future and the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations, commission shall have authority, after further hearing, to enter a supplemental order fixing the proportion of such cost or expense to be borne by each company, and the manner in which the same shall be paid and secured. *Laws 1911, ch. 117, sec. 83.*

WISCONSIN A provision identical with par. 2374, except
2378 that "street railway tracks" is omitted. *Laws 1907, ch. 499, sec. 1797m-4(1), as amended by Laws 1911, ch. 546.*

In case of failure to agree upon such use or the conditions or compensation for such use, any public utility or person, association or corporation interested may apply to commission and if after investigation commission shall ascertain that public convenience and necessity require such use and that such use would
2379 not result in irreparable injury to the owner or other users of such equipment nor in any substantial detriment to the service to be rendered by such owner or other users of such equipment it shall by order direct that such use be permitted and prescribe reasonable conditions and compensation for such joint use. *Same, sec. 1797m-4(2), as amended by Laws 1911, ch. 546.*

Such use so ordered shall be permitted and such conditions and compensations so prescribed for such use shall be the lawful conditions and compensations for such use to be observed, followed and paid subject to recourse to the courts upon the complaint of any interested party as provided in sections 1797m-64 to 1797m-73, inclusive, and such sections so far as applicable shall apply to any action arising on such complaint so made. Any such order of commission may be from time to time revised by commission upon application of any interested party or upon its own motion. *Same, sec. 1797m-4(3), as amended by Laws 1911, ch. 546.*

H. RULES, REGULATIONS, PRACTICES, METHODS AND APPLIANCES.

ARIZONA Whenever commission, after a hearing had upon its own motion or upon complaint shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed and shall fix the same by its order, rule or regulation. *Sess. Laws 1912, ch. 90, sec. 35.*

Commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public service corporation, and upon proper demand and tender of rates, such public service corporation shall furnish such commodity or render such service within the time and upon the conditions provided in such rules. *Same.*

See also par. 2465.

ARKANSAS Commission shall make such rules and regulations to be observed by all persons or corporations operating any railroad or engaged in transporting property as express or freight in respect to the receiving, hauling, transporting, storing and delivering of freight and express as in its judgment the public convenience may require. *Acts 1907, no. 422, sec. 3.*

As to all freight carried wholly within the state and the cars

used therefor commission may make and establish all needful rules and regulations, general and special, which may be different according to the circumstances and conditions to different railroads and localities and for different kinds and classes of freight and cars, providing for time, place and manner of demanding cars for or giving notice of shipment of such freight, and the time, place and manner and order in which same shall be furnished to shippers for the purpose of shipping freight between points in the state; and may prescribe rules and regulations for the furnishing, exchanging and interchanging of cars, loaded and empty, by railroad companies as between each other; the time, place, terms and conditions upon which such cars shall be furnished and such interchange shall be made, and in the absence of an agreement of such railroad companies, the reasonable compensation to be paid by each railroad company for the use, loss, injury or destruction of the cars of another railroad company in the transportation of such freight; and the time within which, and the manner by which railroad companies shall give notice or make demand upon each other for cars to be furnished by one railroad company in exchange for loaded cars, or to have its cars returned, said commission, whenever it may deem same necessary in order to secure the prompt transportation of freight and preservation of the property, shall be authorized to prescribe the minimum speed at which freight shall be moved when being transported between points within the state, including the time for transfer and delivery between connecting railroads. It shall be the duty of every such railroad to conform to all the rules and regulations and orders of commission made in accordance with this act, and the failure of any such railroad company to observe the rules and regulations of commission, or to comply with the provisions hereof, as to freight carried wholly within the state, shall be deemed an abuse subject to correction by commission, and shall subject such railroad company to the penalties hereinafter provided.

Acts 1909, no. 277, sec. 1.

CALIFORNIA Provisions for public utilities identical with
2385 pars. 2381, 2382. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 35.*
See also par. 2465.

CONNECTICUT *See par. 2437.*

FLORIDA Commission shall provide and prescribe all such rules and regulations as may be necessary to secure proper
2386 operation and the furnishing of such facilities and the prompt

handling, transportation and delivery of all freights offered.
Gen. Stats. 1906, sec. 2896.

GEORGIA

Commission may make, prescribe, and enforce all such reasonable rules, regulations and orders as may be necessary in order to compel and require the several railroad companies to promptly receive, receipt for, forward and deliver to destination all freights of every character which may be tendered or received by them for transportation; and as well such reasonable rules, regulations and orders as may be necessary to compel and require prompt delivery of all freights, on arrival at destination, to the consignee. *Code 1911, sec. 2634.*

Commission may prescribe rules and penalties covering and requiring the prompt receipt, carriage, and delivery of freight, the prompt furnishing of cars to shippers desiring to ship freight and rules and penalties for the transfer of cars through yards by connecting roads. *Same, sec. 2664.*

INDIANA

Commission shall adopt all necessary rules and regulations to govern car distribution and delivery, train service and accommodations and for car service or the transfer and switching of cars from one railroad to another at junction points, or where entering the same city or town. *Acts 1907, ch. 241, sec. 3.*

Before any order shall be made by commission changing the rules or regulations of any railroad or express company or other carrier or company respecting car service, the transfer or switching of cars from one railroad to another, or respecting the location or construction of sidings and connections between roads, said commission shall give the company or companies affected by such proposed order not less than ten days' written notice of the time and place where the matters involved in said proposed order shall be considered; and such company shall be entitled to a hearing at the time and place specified in such notice and shall have process to enforce the attendance of its witnesses. *Same, sec. 14.*

KANSAS

See pars. 262, 742, 918, 2497.

LOUISIANA

Commission may make and adopt any and all reasonable and just rules, regulations and orders, affecting or connected with the service and operation of telegraph and telephone companies and corporations and persons engaged in such business in the state. *Stats. 1908, no. 199, sec. 2.*

Commission shall adopt, make and change reasonable and
2382 just rules, regulations and orders affecting and concerning the
service to be given and furnished by express, telegraph and tele-
phone companies. *Same, sec. 3.*

MARYLAND

Whenever commission shall be of the opinion,
after a hearing had upon its own motion or upon complaint, that
the regulations, practices, equipment, appliances or services of
any common carrier or other such corporation in respect to any
services, transportation of persons, freight or property within the
state, are unjust, unreasonable, unsafe, unreasonably improper or
inadequate commission shall determine the just, reasonable, safe,
2393 reasonably adequate and proper regulations, practices, equip-
ment, appliances and service to be in force and to be observed in
respect to such transportation of persons, freight and property,
and so fix and prescribe the same by order to be served upon every
common carrier or other corporation to be bound thereby, and
thereafter it shall be the duty of every such common carrier or
other corporation to observe and obey each and every require-
ment of every such order so served upon it, and to do every-
thing necessary or proper in order to secure absolute compliance
with and observance of every such order by all its officers, agents
or employees. *Laws 1910, ch. 180, sec. 23.*

See also pars. 2423, 2469, 2470.

MASSACHUSETTS

Whenever commission shall be of opinion,
after a hearing had upon its own motion or upon complaint, that
the regulations, practices, equipment, appliances or service of
any such carrier in respect to transportation of persons or prop-
erty within the state are unjust, unreasonable, unsafe, improper
2394 or inadequate, commission shall determine the just, reasonable,
safe, adequate and proper regulations, practices, equipment, ap-
pliances and service thereafter to be in force, to be observed and
to be used in such transportation of persons and property, and
shall recommend the same by order to be served upon such car-
rier. *Acts 1911, ch. 755, sec. 2.*

2395 Facilities fixed and determined by statute shall not be re-
vised or regulated by commission. *Same, sec. 3.*

See also pars. 758, 2507.

MICHIGAN

See pars. 281, 284, 2425.

NEVADA

See pars. 977, 978.

NEW HAMPSHIRE *See pars. 2452, 2480.*

NEW JERSEY

See pars. 2291, 2481.

NEW MEXICO

Commission shall make and enforce reasonable and just rules requiring the supplying of cars and equipment
2386 for the use of shippers and passengers. *Const., art. xi, sec. 7.*

NEW YORK

Whenever commission shall be of opinion, after a hearing, had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances, or service of any such common carrier, railroad or street railroad corporation in respect to transportation of persons or property within the state are unjust, unreasonable, unsafe, improper or inadequate, commission shall determine the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and
2397 service thereafter to be in force, to be observed and to be used in such transportation of persons and property and so fix and prescribe the same by order to be served upon every common carrier, railroad and street railroad corporation to be bound thereby; and thereafter it shall be the duty of every common carrier, railroad and street railroad corporation to observe and obey each and every requirement of every such order so served upon it, and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by all of its officers, agents and employees. *Laws 1910, ch. 480, sec. 49(2).*

Whenever commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such person or corporation are unsafe, inefficient or inadequate, commission shall determine and pre-
2398 scribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters. *Same, sec. 66(5).*

Whenever commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rules, regulations or practices of any telegraph corporation or telephone corporation are unjust or unreasonable or that the equipment or service of any telegraph corporation or telephone corporation is inadequate, inefficient, improper or insufficient, commission shall determine the just, reasonable, adequate, efficient and proper regulations, practices, equipment and service thereafter
2399 to be installed, to be observed and used, and to fix and prescribe the same by order to be served upon every telegraph and tele-

phone corporation to be bound thereby, and thereafter it shall be the duty of every telegraph and telephone corporation to which such order is directed to obey each and every such order so served upon it and to do everything necessary or proper in order to secure compliance with and observance of every such order by all its officers, agents and employees according to its true intent and meaning.¹ *Same, sec. 97(2).*

See also pars. 2427, 2483, 2520.

NORTH CAROLINA Commission shall make reasonable and just
2400 rules for the handling of freight and baggage at stations. *Pell's Revisal, 1908, sec. 1094.*

Commission shall make rules, regulations and rates governing storage charges by railroad companies and other transportation companies; and shall make rules governing railroad companies in the placing of cars for loading and unloading and in
2401 fixing time limit for delivery of freights after the same have been received by the transportation companies for shipment. *Same, sec. 1100.*

See also par. 2558.

OHIO Commission may enforce reasonable regulations for furnishing cars to shippers, switching, loading and un-
2402 loading them, and the weighing of cars and freight offered for shipment over any line of railroad. *Code 1910, sec. 521.*

Whenever commission shall be of the opinion, after hearing had upon complaint, as in this act provided, or upon its own initiative or complaint, served as in this act provided, that the rules, regulations, measurements, or practices of any public utility with respect to its public service are unjust or unreasonable, or that the equipment or service thereof is inadequate, inefficient,
2403 improper or insufficient, or cannot be obtained, it shall determine the regulations, practices and service thereafter to be installed, observed, used and rendered, and fix and prescribe the same by order to be served upon the public utility. It shall thereafter be the duty of such public utility and all of its officers, agents and official employees to obey the same and do everything necessary or proper to carry the same into effect and operation. *Laws 1911, no. 325, sec. 29.*

See also pars. 2487, 2521.

¹ Nothing contained in this chapter shall be construed as giving to commission power to make any order, direction or requirement requiring any telegraph corporation or telephone corporation to perform any act which is unjust or unreasonable or in violation of any law of this state or of the United States not inconsistent with the provisions of this chapter. *Laws 1910, ch. 480, sec. 97(2).*

OKLAHOMA

See pars. 844, 846.

OREGON

Commission may make, establish, and alter either on its own motion or upon complaint, in the manner provided in section 28, reasonable regulations and rules, not inconsistent with the provisions of this section, for the delivery, switching, weighing, loading and unloading of cars, and enforce the same. *Gen. Laws 1907, ch. 53, sec. 26(p).*

See also pars. 748, 1013, 1017, 1022, 1309, 2487, 2523.

PENNSYLVANIA

See par. 762.

RHODE ISLAND

If upon such a hearing and investigation had under the provisions of this act, commission shall find that any regulation, measurement, practice, act or service of any public utility is unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this act, or that any service of any such public utility is inadequate or that any service which can be reasonably demanded cannot be obtained, commission may substitute therefor such other regulations, measurements, practices, service, or acts, and make such order respecting, and such changes in such regulations, measurements, practices, service or acts, as shall be just and reasonable. *Acts 1912, ch. 795, sec. 22.*

Whenever commission shall believe that any regulation, measurement, practice or act whatsoever of such public utility affecting or relating to the conveyance of persons or property or any of the service in connection therewith or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or any service in connection therewith is in any respect unreasonable, insufficient or unjustly discriminatory or that any service of such public utility is inadequate or cannot be obtained or is unsafe or the public safety is in danger thereby or that an investigation of any matter relating to a public utility should for any reason be made, commission may of its own motion summarily investigate the same with or without notice. *Same, sec. 26.*

See also par. 1025, 2529, 2601.

SOUTH DAKOTA *See pars. 345, 346.*

TEXAS

Commission may, as to all freight carried wholly within the state, and the cars used therefor, make and establish all needful rules and regulations, general and special, which may be different according to the circumstances and conditions of different railroads and localities and for different kinds

and classes of freight and cars, providing for the time, place and manner of demanding cars for, or giving notice of shipment of such freight and the time, place, manner and order in which the same shall be furnished to shippers for the purpose of shipping freight between points in the state; and prescribe rules and regulations for the furnishing, exchanging and interchanging of cars, loaded and empty, by railroad companies as between each other; the time, place, terms and conditions upon which such cars shall be furnished and such interchange shall be made, and in the absence of an agreement of such railroad companies, the reasonable compensation to be paid by each railroad company for the use, loss, injury or destruction of the cars of another railroad company in the transportation of such freight; the time within which, and the manner by which, railroad companies shall give notice or make demand upon each other for cars to be furnished by one railroad company in exchange for loaded cars, or to have its cars returned. Said commission, whenever it may deem same necessary in order to secure the prompt transportation of freight and preservation of the property, shall be authorized to prescribe the minimum speed at which freight shall be moved when being transported between points within the state, including the time for transfer and delivery as between connecting railroads. It shall be the duty of every such railway company to conform to all of the rules and regulations and orders, of commission made in accordance with this act, and the failure of any such railroad company to observe the rules and regulations of commission or to comply with the provisions hereof as to freight carried wholly within the state, shall be deemed an abuse subject to correction by commission, and shall subject such railroad company to the penalties hereinafter provided.

Laws 1907, ch. 184, sec. 3.

VERMONT *See par. 349.*

VIRGINIA *See par. 883.*

WASHINGTON Whenever commission shall find, after such hearing, that the rules, regulations, practices, equipment, appliances, facilities or service of any such common carrier in respect to the transportation of persons or property are unjust, unreasonable, unsafe, improper, inadequate or insufficient, commission shall determine the just, reasonable, safe, adequate, sufficient and proper rules, regulations, practices, equipment, appliances, facilities or service to be observed, furnished, constructed or

enforced and be used in the transportation of persons and property by such common carrier, and fix the same by its order or rule as hereinafter provided. *Laws 1911, ch. 117, sec. 53.*

2409 Whenever commission shall find, after hearing, that any rules, regulations, measurements or the standard thereof, practices, acts or service of any such gas, electrical or water company are unjust, unreasonable, improper, insufficient, inefficient or inadequate, or that any service which may be reasonably demanded is not furnished, commission shall fix the reasonable rules, regulations, measurements or the standard thereof, practices, acts or service to be thereafter furnished, imposed, observed and followed, and shall fix the same by order, or rule, as hereinafter provided. *Same, sec. 54.*

2410 Whenever commission shall find after such hearing that the rules, regulations or practices of any telegraph or telephone company are unjust or unreasonable, or that the equipment, facilities or service of any telegraph or telephone company is inadequate, inefficient, improper or insufficient, commission shall determine the just, reasonable, proper, adequate and efficient rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order or rule as hereinafter provided. *Same, sec. 55.*

2411 Whenever commission shall find, after such hearing, that the rules, regulations or practices of any wharfinger or warehouseman are unjust or unreasonable, or that the equipment, facilities or service of any wharfinger or warehouseman are inadequate, inefficient, improper, insufficient or unsafe, commission shall determine the just, reasonable, proper, adequate, efficient and safe rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order of commission as hereinafter provided. *Same, sec. 56.*

2412 Commission may provide by proper rules and regulations the time within which all railroads shall furnish, after demand therefor, all cars, equipment and facilities for the handling of freight in carload and less than carload lots, and receiving, gathering and transporting, after demand, of all express packages and the delivery thereof at destination, the distance that freight shall be transported each day after receipt, the time within which consignors or persons ordering cars shall load the same, and the time within which consignee and persons to whom freight may be consigned shall unload and discharge the same and receive

freight from the freight rooms, and provide the penalties to be paid to consignors and consignees for delays on the part of railroads to conform to such rules, and prescribe the penalty to be paid by consignors and consignees to railroads for failure to observe such rules. *Same, sec. 59.*

Commission shall adopt, promulgate and issue rules and regulations covering the bulletining of trains, showing the time of arrival and departure of all trains, and the probable arrival and departure of delayed trains; the conditions to be contained in and become a part of contracts for transportation of persons and property, transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity and water, and any and all services concerning the same, or connected therewith; the time that station rooms and offices shall be kept open; rules governing demurrage and reciprocal demurrage, and provide reasonable penalties to expedite the prompt movement of freight and release of cars, and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this act. Such rules and regulations shall be promulgated and issued by commission on its own motion, and shall be served on the public service company affected thereby as other orders of commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of them, improper, unjust, unreasonable, or contrary to law, may within 20 days from the date of service of such order upon it file objections thereto with commission, specifying the particular grounds of such objections. Commission shall, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. Commission may adopt rules to govern its proceedings, and regulate the mode and manner of all investigations and hearings; provided, no person desiring to be present at such hearing shall be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of commission. *Same, sec. 85.*

See also pars. 1044, 2492, 2536, 2606.

WISCONSIN

If upon such investigation it shall be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of any of the provisions of this act, or if it be found that any service is inadequate or that

2414 any reasonable service cannot be obtained, commission may substitute therefor such other regulations, measurements, practices, service or acts and make such order respecting, and such changes in such regulations, measurements, practices, service or acts as shall be just and reasonable. *Laws 1907, ch. 499, sec. 1797m-46(2).*

2415 Whenever commission shall believe that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made, commission may on its own motion summarily investigate the same with or without notice. *Same, sec. 1797m-49.*

2416 Whenever, upon an investigation made under the provisions of this act, commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of any of the provisions of this act; or shall find that any service is inadequate or that any service which can be reasonably demanded cannot be obtained, commission shall determine and declare and by order fix reasonable measurements, regulations, acts, practices or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, inadequate or otherwise in violation of this act as the case may be, and shall make such other order respecting such measurement, regulation, act, practice or service as shall be just and reasonable. *Same, sec. 1797m-60(2).*

See also pars. 1311, 2493, 2537.

I. REPAIRS, CONSTRUCTION, RECONSTRUCTION, ADDITIONS AND OTHER PROPERTY CHANGES.¹

1. *Utilities other than Railroads and Common Carriers.*

ARIZONA, CALIFORNIA

Whenever commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility² or of any two or more public utilities² ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or con-

¹ See also pars. 2562-2613.

² "Public service corporation," in Arizona.

2417 venience of its employees or the public, or in any other way to secure adequate service or facilities, commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If commission orders the erection of a new structure, it may also fix the site thereof. *Ariz.—Sess. Laws 1912, ch. 90, sec. 36; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 36.*

If any additions, extensions, repairs, improvements, or changes, or any new structure or structures which commission has ordered to be erected, require joint action by two or more public utilities¹ commission shall notify the said public utilities¹ that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities¹ shall have such reasonable time as commission may grant within which to agree upon the portion or division of cost
2418 of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities¹ shall fail to file with commission a statement that an agreement has been made for division or apportionment of the cost of expense of such additions, extensions, repairs, improvements or changes, or new structure or structures, commission may, after further hearing, make an order fixing the proportion of such cost or expense to be borne by each public utility¹ and the manner in which the same shall be paid or secured. *Same.*

See also pars. 2381, 2385.

CONNECTICUT

Any town, city or borough within which or between which and any other town, city, or borough in this state, any public service company is furnishing service, or any ten patrons of any such company, may bring a written petition to commission alleging that the plant or equipment of such company is inadequate or unsuited to the public need. Thereupon commission shall fix a time and place for a hearing upon such petition, and shall mail notice thereof to the parties in interest and give
2419 due public notice thereof at least one week prior to such hearing. Upon said hearing commission may, if it finds such plant or equipment to be inadequate or unsuited to the public need, order and prescribe such plant or equipment as shall be adequate and suitable, and fix a time within which said company shall con-

¹ "Public service corporation," in Arizona.

struct such plant or obtain such equipment. It shall thereupon be the duty of such company to construct such plant or obtain such equipment within the time so fixed. *Pub. Acts 1911, ch. 128, sec. 22.*

Whenever any resident of any town who owns and occupies real estate within such town, and within which town any telephone company is now operating or shall hereafter operate a telephone line, located not to exceed three-quarters of one mile, measured along a highway, distant from the real estate of such resident, shall present to such company a written petition, signed by 20 residents of such town who are subscribers to the telephone service of such company, requesting an extension of the service
2420 line of such company and the installation of a specified telephone service upon his premises, and shall obligate himself, with sufficient security for the performance of such obligation, to use and pay for said service for a period of five years thereafter, such company shall, within 60 days thereafter, extend its service line and install upon the premises of such petitioner a telephone equipment similar to the equipment furnished subscribers for the same class as such petitioner, and for the same rate charged for such service within such town. *Pub. Acts 1911, ch. 276, sec. 1.*

If such company shall refuse or neglect to so extend its service line and install such telephone service, the petitioner may prefer his complaint to the superior court for the county within which such petitioner resides, alleging such refusal or neglect and summoning such company to appear before said court to answer the allegations of said complaint. If said court shall find that
2421 the cost of extending the lines of such company and installing a telephone equipment as specified in such petition is not excessive in proportion to such company's published rate charged for the class of service requested by the petitioner, said court shall order such company to extend its service line and install the equipment requested by such petitioner, and may, in its discretion, tax costs against either party, and make such orders concerning the matter as said court deems just. *Same, sec. 2.*

GEORGIA *See par. 2440.*

KANSAS *See pars. 265, 919.*

LOUISIANA *See par. 2316.*

MARYLAND Commission may order such improvements as will best promote the public interest, preserve the public health and protect those using gas or electricity and those employed in

2422 the manufacture and distribution thereof, or in the maintenance and operation of the works, wires, poles, lines, conduits, ducts and systems in connection therewith. *Laws 1910, ch. 180, sec. 31¾.*

Commission shall investigate and ascertain, from time to time, the service supplied by such persons and corporations; shall examine all the methods employed by such persons and corporations supplying facilities for the transmission of intelligence by electricity, and may order such improvements as will best promote the public interest and protect those using telephones and those employed in the business thereof or in the maintenance and operation of the works, wires, poles, lines and conduits maintained therein. *Same, sec. 39(2).*

Commission shall require that every telephone company furnish to its patrons reasonably good and adequate service in all respects. If in the judgment of commission repairs or improvements to or changes in any telegraph or telephone line, apparatus, machinery, equipment or facilities, or any other property, used by any telegraph company or telephone company in connection with telegraphic or telephonic communication ought reasonably to be made, or any additions or alterations are necessary in order to promote the security or convenience of the public or employes, or in order to secure adequate service or facilities for telegraphic or telephonic communications, commission shall, after a hearing either on its own motion or after complaint, make and serve an order directing such repairs, improvements, changes, additions or alterations, to be made within a reasonable time and in a manner to be specified therein, and every telegraph and telephone company is hereby directed to make all repairs, improvements, changes, additions or alterations required of it by any order of commission served upon it. *Same, sec. 40.*

See also par. 928.

MICHIGAN Commission may inspect and examine all such electrical apparatus already installed in any public highways, streets or places, and all such apparatus hereafter installed, and investigate from time to time the method employed by persons, firms, or corporations transmitting and supplying electricity, and **2425** may order such improvements in such method as it shall be necessary to secure good service and the safety of the public and of those employed in the business of transmitting and distributing such electricity, and of any persons liable to be injured by the

erection, maintenance and use of such apparatus. *Pub. Acts 1909, no. 106, sec. 5.*

See also par. 1188.

NEVADA *See par. 2451.*

NEW HAMPSHIRE *See par. 2480.*

NEW JERSEY Commission may, after hearing, upon notice, by order in writing, require every public utility as herein defined, to establish, construct, maintain and operate any reasonable extension of its existing facilities, where, in the judgment of said commission such extension is reasonable and practicable and will
2426 furnish sufficient business to justify the construction and maintenance of the same, and when the financial condition of the said public utility reasonably warrants the original expenditure required in making and operating such extension. *Laws 1911, ch. 195, sec. 17(c).*

NEW YORK Whenever commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any gas or electric corporation are unsafe, inefficient or inadequate, commission
2427 shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters. *Laws 1910, ch. 480, sec. 66(5).*

Whenever commission shall be of opinion, after a hearing had upon its own motion, or upon a complaint, that repairs or improvements to or changes in any telegraph or any telephone line ought reasonably to be made, or that any additions should reasonably be made thereto, in order to promote the convenience of the public or employes, or in order to secure adequate service or facilities
2428 for telegraphic or telephonic communications, commission shall make and serve an order directing that such repairs, improvements, changes or additions be made within a reasonable time and in a manner to be specified therein and every telegraph and telephone corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of commission served upon it. *Same, sec. 98.*

See also pars. 993, 2483.

OHIO Whenever commission shall be of the opinion, after hearing had, as in this act provided, or upon its own initia-

tive or complaint, as in this act provided, that repairs, or improvements to the plant or equipment of any public utility, should reasonably be made, or that any additions thereto should reasonably be made, in order to promote the convenience or welfare of the public or of employes, or in order to secure adequate service
2429 or facilities, commission may make and serve an appropriate order with respect thereto, directing that such repairs, improvements, changes or additions be made within a reasonable time, and in a manner to be specified therein. Every such public utility, its officers, agents and official employes shall obey such order and make such repairs, improvements, changes and additions required of such public utility by such order. *Laws 1911, no. 325, sec. 30.*

See also par. 1194.

RHODE ISLAND Whenever commission shall find upon hearing and investigation under the provisions of this act, either on its own motion or upon complaint as hereinbefore provided, that the plant or equipment of any public utility is inadequate, insufficient, or unsuited to the public needs, or that repairs, improvements, or changes in such plant or equipment ought reasonably to be made,
2430 or that an addition to, alteration, or extension of, the plant or equipment of any public utility ought reasonably to be made, commission may order that such repairs, improvements, changes, additions, alterations, or extensions to the plant or equipment be made within a reasonable time and in a manner to be specified therein, provided that any such order shall be subject to the right of appeal. *Acts 1912, ch. 795, sec. 50.*

SOUTH DAKOTA Commission or any member thereof shall make such investigation and order such changes and betterments and
2431 improvements in telephone lines and exchanges as may be deemed necessary for the improvement of the telephone service and the convenience of the public. *Sess. Laws 1911, ch. 218, sec. 7.*

VERMONT *See par. 351.*

WASHINGTON Whenever commission shall find after hearing had upon its own motion or upon complaint, that repairs or improvements to, or changes in, any gas plant, electrical plant or water system ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the
2432 security or convenience of the public or employes, or in order to secure adequate service or facilities for manufacturing, distributing, or supplying gas, electricity, or water, commission may enter

an order directing that such reasonable repairs, improvements, changes, additions or extensions of such gas plant, electrical plant or water system be made. *Laws 1911, ch. 117, sec. 70.*

Whenever commission shall find, after a hearing had on its own motion or upon complaint, that repairs or improvements to, or changes in, any telegraph or telephone line ought reasonably to be made, or that any additions or extensions should reasonably be
2433 made thereto in order to promote the security or convenience of the public or employes, or in order to secure adequate service or facilities for telegraphic or telephonic communications, commission shall make and serve an order directing that such repairs, improvements, changes, additions or extensions be made in the manner to be specified therein. *Same, sec. 71.*

Whenever commission shall find, after hearing had upon its own motion or upon complaint, that repairs or improvements to, or changes in, any dock, wharf or warehouse ought reasonably to be made, or that any additions or extensions should reasonably
2434 be made thereto in order to promote the security or adequate service or facilities for the receipt, storage or handling of freight, commission shall make and serve an order directing that such repairs, improvements, changes, additions or extensions shall be made in the manner specified therein. *Same, sec. 72.*

See also pars. 1182, 1183.

2. Railroads and other Common Carriers.

ALABAMA

If in the judgment of commission, repairs or improvements to or changes in any trains, switches, terminals or terminal facilities, motive power, or any other property or device used by any common carrier, railroad or street railroad corporation, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made, or any additions should reasonably be made thereto, in order to promote the security or convenience of the public or employes, or in order
2435 to secure adequate service or facilities for the transportation of passengers, freight or property, commission shall, after a hearing had either on its own motion or after complaint filed, make and secure an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every common carrier, railroad and street railroad corporation, is required and directed to make all such repairs, improvements, changes and additions required of it

by any order of commission served on it. *Acts 1907, sp. sess., no. 17, sec. 1.*

See also pars. 242, 736, 771.

CALIFORNIA

See par. 2417.

COLORADO

If, in the judgment of commission, after a careful personal examination and investigation, and after hearing, or the opportunity for hearing, commission shall find that repairs, improvements, or increased facilities in respect to roadbeds, trackage, rolling stock, stations and depots, yards, terminal facilities, switches, signals, or any other element of the service of any common carrier, shall be necessary and within the reasonable power of any common carrier to make, or adopt, for the promotion of the security of persons as to life and limb, or for the convenience and accommodations of the public in the shipping and handling of property, commission shall make such reasonable order requiring any common carrier to do any such thing deemed by commission to be proper in respect to such matters, within a reasonable time to be fixed by commission, as to them shall seem so necessary and so within such reasonable power of such common carrier; and the orders of commission in such respect shall be enforced by the proper writs and orders of courts of competent jurisdiction. *Laws 1910, sp. sess., ch. 5, sec. 27.*

CONNECTICUT

Commission, subject to the right of appeal, as provided in section 3834,¹ shall have exclusive jurisdiction and direction over the method of construction or reconstruction in whole or in part of every street railway in the state, the power of designing the kind and quality of track to be used and the method of laying the same, the kind, quality and finish of all material, tracks, wires, poles, conductors, fixtures and structures to be used in such construction, and the method and manner of applying motive power, and may make all orders necessary to the exercise of such power and direction, which orders shall be in writing and recorded in the records of commission. Every company operating any street railway shall, at its own expense, comply with and carry out such orders. *Gen. Stats. 1902, sec. 3830.*

Commission may at any time and on the complaint in writing of five stockholders or creditors of any railroad assigning sufficient reason shall examine the railroad of such company and all its appurtenances, engines, and cars, and its by-laws and rules; and in such examination shall pass over the road at a rate not

¹ Appeal to superior court.

exceeding six miles an hour, shall stop at each culvert, bridge and piling, and examine the same, and shall examine the rails and ties in every mile, after notifying the company in writing of the time of such examination. They shall notify the company to make all repairs required within a time limited. *Same, sec. 3884.*

FLORIDA Commissioners may require any railroad, railroad company or common carrier to properly operate its railroad or transportation line and to furnish all the necessary facilities **2439** for the convenient and prompt handling, transportation and delivery of all freights offered along its line for transportation. *Gen. Stats. 1906, sec. 2896.*

GEORGIA Commission shall require all common carriers and other public service companies under their supervision to establish and maintain such public service and facilities as may be **2440** reasonable and just, either by general rules or by special orders in particular cases. *Code 1911, sec. 2663.*

ILLINOIS *See par. 373.*

INDIANA Whenever commission shall secure reliable information or complaint shall have been made, or, because of reports made by its inspectors, shall have reason to believe that any carrier does not keep its road or equipment in proper condition and repair for the security of its employes or the public, or that any carrier does not maintain adequate and suitable depots, buildings, platforms, switches, and side tracks for passengers and for the receiving, protecting, handling, forwarding and delivery of all freight offered for shipment or received at said stations, or that there is a dangerous defect in connection with the operation of any railroad or in any railroad bridge, culvert, curve, embankment, water tank, crane, frog, railroad or wagon road crossing, ties or tracks, motive power, stations, rolling stock, machinery or in any roadbed or ground used in connection with the operation of any railroad or any dangerous neglect or fault in the construction, equipment or management of any railroad. Commission shall cause such investigation to be made as it may deem necessary, and when such investigation shall have been made, said **2441** commission shall make a report to the manager or superintendent of the railroad company. In said report and recommendations, commission shall make an accurate statement of the time such examination was made, of the exact location, character and extent of such defects or omissions, if any such shall have been

found, and shall also recommend such reasonable changes and improvements, additions, buildings and accommodations, as are, in the opinion of commission necessary to remedy such faults, neglects, requirements or defects. Such recommendations shall set out specifically a reasonable time within which such improvements or changes or additions, shall be made by the railroad company. And if they are not so made within said time so specified, then commission if it deem it best to do so, may commence proceedings by mandamus, or other remedy, in some circuit or superior court having jurisdiction of the carrier to enforce compliance with its order. All courts shall give preference to such cases and shall hear and determine the same speedily to the end that the public interests may not suffer. *Acts 1911, ch. 76, sec. 1(b).*

IOWA

When in judgment of commission any repairs are necessary upon its road, or any addition to its rolling stock, or addition to or change in its stations or station houses, or the equipment thereof for the health and convenience of the public, or change in its rate of fare for transporting freight or passengers, or change in the mode of operating its road or conducting its business, is reasonable and expedient in order to promote the security, convenience, and accommodation of the public, commission shall serve a notice upon such corporation, in the manner provided for the service of an original notice in a civil action, which notice shall be signed by its secretary, of the improvements and changes which it finds to be proper; and a report of such proceedings shall be included in its annual report to the governor, as provided in section 2114; but nothing in this section shall be so construed as relieving any railroad company from its present responsibility or liability for damage to person or property. *Code 1897, sec. 2113.*

KANSAS

Whenever in the judgment of commission, it shall appear that any repairs are necessary upon its road, or any addition to its rolling-stock, or any addition to or change of its stations or station houses, or any change in its rates for transporting passengers or freight, or any change in the mode of operating its road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, said commission shall inform such corporations of the improvement and changes which it deems to be proper by a notice thereof in writing, which notice shall state the

time within which said improvements or changes are required to be made; and if such orders are not complied with within the time stated in said notice, the attorney for commission shall forthwith file with the commission a complaint in writing, praying for an investigation of said matter. *Gen. Stats. 1909, sec. 7188.*

See also par. 265.

KENTUCKY

Whenever in the judgment of commission, after a personal examination of the same it shall appear that repairs are necessary upon any railroad, or when, from complaint made or its knowledge it shall have reason to believe that the tracks, bridges, tunnels or other structures of any company are in an unsafe or dangerous condition, or unfit for public travel, or that any additions to, improvements or changes in, the stations or terminal facilities are needed for the convenience and security of the public, commission shall give notice in writing to the company owning or operating such road of the repairs, improvements or changes it deems proper and necessary, and shall afford such corporation an opportunity to be heard in reference thereto; and if the company shall neglect or refuse to make such repairs, improvements, or changes within a reasonable time after such hearing, commission shall lay the facts before the attorney general for his action and shall report the same fully to the next legislature. *Carroll's Stats. 1909, sec. 830.*

MAINE

A majority of commission or one member thereof annually between the first of April and October and at any other time on application or whenever they think necessary shall carefully examine the tracks, rolling stock, bridges, viaducts and culverts of all railroads; and shall annually in December make a report to the governor of their official doings, therein stating the condition of the road and rolling stock, with such facts as they deem of public interest or which he may require; and all persons managing railroads shall give commission such information as they at any time require. *Rev. Stats. 1903, ch. 51, sec. 50.*

MARYLAND

Provision substantially identical with par. 2435, except "repairs or improvements to or changes in any trains, switches, terminals or terminal facilities, motive power, or any other property or device" reads "repairs or improvements to or changes in any tracks, switches, terminals or terminal facilities, stations, motive power, or any other property, construction apparatus, equipments, facilities or device." *Laws 1910, ch. 180, sec. 23.*

If in the judgment of commission any common carrier, railroad or street railroad corporation does not possess or operate motive power enough reasonably to accommodate the traffic, passenger and freight transported by or offered for transportation to it, commission may after hearing, either on its own motion or after complaint, make an order directing any such railroad or street railroad corporation to increase the number of its motive power. *Same, sec. 24.*

MASSACHUSETTS Railroad and street railway inspectors shall, under the direction of commission, examine the roadbed, tracks, crossings, stations, rolling stock, machinery, equipments, appliances and grounds used in or in connection with the operation of railroads or street railways; and if they are considered by an inspector not to be in compliance with the requirements of law, or to be in such condition as to endanger the safety of the public or of employees, he shall so report in writing to commission, which, if it considers it necessary, shall give notice to the corporation or company, or to the persons who own or operate the railroad or street railway, of such failure to comply with the requirements of the law or of such defects, with such recommendation as it may consider necessary or proper. *Acts 1906, ch. 463, pt. i, sec. 56.*

If, in the opinion of commission, additional accommodations for the traveling public are required upon any street railway, it may, after due notice to the company and a hearing, make an order requiring such additional accommodations as it determines are just, and may alter, renew or revoke the order. A street railway company which, for more than one week after receiving notice in writing of such order, neglects to comply therewith, shall forfeit to the use of the city or town for which such additional accommodations are ordered, or if they are ordered for more than one city or town, to the use equally of such cities or towns, \$100 for each day thereafter during which such neglect continues. *Acts 1906, ch. 463, pt. iii, sec. 97.*

See also pars. 759, 761.

MICHIGAN Upon the filing of complaint with commission and hearing thereon, commission is authorized to make full inquiry in the matter of station facilities, train service, name of station, etc., at the station in question, and make such orders in regard to the building of depots, interurban railway shelters, name of station, stopping of trains or cars, necessary sidings and other track accommodations as it shall deem for the public in-

terest and shall be just and reasonable. *Pub. Acts 1909, no. 300, sec. 13(a).*

MINNESOTA

See par. 380.

NEVADA

Commission may also investigate the physical condition of all railroad property and in the interests of safety or service may determine and order repairs, reinforcements or reconstruction of property. *Stats. 1907, ch. 44, sec. 7, as amended by Stats. 1909, ch. 121, sec. 3.*

NEW HAMPSHIRE

Whenever commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that any part of any railroad within the state, reasonably requires alteration or reconstruction or that the regulations, practices, equipment, appliances, or service of any railroad corporation in respect to transportation of persons or property within the state, are unjust, unreasonable, unsafe, improper or inadequate, commission shall notify the railroad in writing of its opinion and recommendations in respect thereto and shall insert in its next report to the governor and council an account of its proceedings and recommendations. If the railroad shall unreasonably neglect or refuse to adopt the recommendations of said commission, the commission may make an order as hereinafter prescribed in cases affecting the public safety. In any case where the safety of the public or of the employees of such railroad is concerned, commission may in the first instance determine the reconstruction or alteration reasonably required or the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service thereafter to be in force, or to be provided, and shall fix and prescribe the same by order to be served upon every railroad corporation to be bound thereby; and thereafter it shall be the duty of every such railroad corporation to observe and obey each and every requirement of every such order so served upon it, and to do everything necessary or proper in order to secure absolute compliance with, and observance of every such order by all of its officers, agents and employees. *Laws 1911, ch. 164, sec. 11(b).*

NEW YORK

If in the judgment of commission, additional tracks, switches, terminals or terminal facilities, stations, motive power, or any other property, construction, apparatus, equipment, facilities or device for use by any common carrier, railroad or street railroad corporation in or in connection with the transportation of passengers or property ought reasonably to be provided, or any repairs or improvements to or changes in any thereof

in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto in order to promote the security or convenience of the public or employes, or in order to secure adequate service or facilities for the transportation of passengers or property, commission shall, after a hearing either on its own motion or after complaint, make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every common carrier, railroad and street railroad corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of commission served upon it. *Laws 1910, ch. 480, sec. 50.*

If any repairs, improvements, changes or additions which commission has determined to order require joint action by two or more of said corporations, commission shall, before entry and service of order, notify the said corporations that such repairs, improvements, changes or additions will be required and that the same shall be made at their joint cost, and thereupon the said corporations shall have 30 days or such longer time as commission may grant within which to agree upon the part or division of cost of such repairs, improvements, changes or additions which each shall bear. If at the expiration of such time such corporations shall fail to file with commission a statement that an agreement has been made for a division or apportionment of such repairs, improvements, changes or additions commission may, after further hearing, fix in its order the proportion of such cost or expense to be borne by each corporation and the manner in which the same shall be paid and secured. But this section shall not be construed to authorize commission to require two or more railroad corporations to unite in the erection of a union station. *Same.*

Also a provision identical with par. 2447. *Same, sec. 51.*

NORTH CAROLINA Commission may require all transportation and transmission companies to establish and maintain all such public service facilities and conveniences as may be reasonable and just. *Pell's Revisal 1908, sec. 1066.*

OKLAHOMA *See par. 843.*

PENNSYLVANIA *See pars. 333, 763.*

SOUTH CAROLINA Whenever in the judgment of commission, it shall appear that repairs are necessary upon any railroad, or that any addition to the rolling stock, or any enlargement of, or im-

provement in, the stations or station houses, or any modification in the rates of fare for transporting freight or passengers, or any change in the mode of operating the road and conducting its business, is reasonable and expedient in order to promote the security, **2457** convenience and accommodation of the public, it shall give information, in writing, to the corporation of the improvements and changes which it adjudges to be proper, and if the said company shall fail, within 60 days, to adopt the suggestions of commission, it shall take such legal proceedings as it may deem expedient, and shall have authority to call upon the attorney general to institute and conduct such proceedings. *Gen. Stats. 1902, sec. 2069.*

Upon the complaint and application of the mayor and aldermen or council of any city, town or county board of commissioners of any county within which any part of any railroad is located, commission shall make an examination of the condition and operation thereof. Before proceeding to make such examination in accordance with such application, said commission shall give to the applicants and the railroad corporation reasonable notice, in writing of the time and place of entering upon the same. If, **2458** upon such examination, it shall appear to commission that the complaint alleged by the applicant is well founded, it shall so adjudge, and shall inform the corporation operating such railroad of its adjudication, and the company failing for 60 days after such notice to remove the cause of such complaint, it shall make report thereof to the general assembly for such action as it may deem expedient; or if there be necessity for prompt action, it may take such legal proceedings as may be proper, and the attorney general shall institute and conduct such proceedings. *Same, sec. 2070.*

See also par. 337.

SOUTH DAKOTA Commission shall from time to time carefully examine and inspect the conditions of each common carrier in the state, and of its equipment, and the manner of its conduct and management, with reference to the safety, accommodation and convenience of the public. And if any bridge, line, wire, facility or structure shall be deemed unsafe by commission it shall notify the common carrier immediately, and it shall be the duty of said common carrier to repair, or replace said bridge, line, wire, facility or structure, in such manner and of such material and within such time as said commission may order. Whenever in **2459** the judgment of commission, it shall appear that any repairs are

necessary upon its road, or facilities, or any addition to its rolling stock, or any stations or any additions to or change of its stations or station houses or any change in its rates of fare transporting freight, passengers, express or messages, or any change in the mode of operating its line or lines or conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, commission shall inform such common carrier of the improvements and changes which it adjudges to be proper, by notice thereof in writing and a report of the proceedings shall be included in the annual report of commission to the legislature. *Sess. Laws 1911, ch. 207, sec. 2.*

TENNESSEE

See par. 869.

TEXAS

Commission shall see that each and every railroad corporation, shall provide and equip itself with sufficient motive power and rolling stock or other equipment necessary to handle all passenger and freight traffic expeditiously and without delay. Commission may require of such common carriers the purchase of such rolling stock and motive power as will properly equip such common carrier and facilitate the movement of all traffic, passenger and freight, and that will supply the transportation accommodations which such common carrier offers to perform as an inducement to the public to travel or ship via the lines of such railroad company or common carrier. Commission may also approve liens or mortgages that may be given by such railroad companies and common carriers to secure the purchase or lease price of any equipment or motive power which may be
2460 deemed by commission necessary for the proper discharge of its duty as a common carrier. If in the judgment and discretion of commission any railroad company which now has an excessive issue of bonds and stocks outstanding, has not sufficient passenger and freight equipment and motive power to handle the passenger and freight business of such common carrier and railroad company, commission shall, after not less than five days' notice and hearing, issue an order requiring the purchase of such rolling stock as in the judgment and discretion of commission may be deemed necessary for the prompt, expeditious and comfortable transportation of freight and passengers over the line of such railroad company and common carrier, and in such case commission is authorized to approve contracts or liens for the purpose of securing the purchase or lease price of such rolling stock, motive power and equipment. *Laws 1907, ch. 155, sec. 2.*

Any railroad company or common carrier failing to comply

with these provisions or to obey the orders of commission made in pursuance of the provisions hereof shall be deemed guilty of an abuse of their rights and privileges and upon conviction shall be
2451 subject to a fine of \$100, for a violation or failure to comply with any order and each day that such railroad company or common carrier neglects, fails, or refuses to comply with such orders shall constitute a separate offense. *Same, sec. 3.*

VIRGINIA

If any railroad or other transportation company, when directed by a valid order of commission, refuses or fails to make necessary repairs or additions to its rolling stock, or addition or improvement to its equipment, or any enlargement of or improvement in its stations, station houses, wharves, or
2452 landings, or any change in the mode of operating its road or transportation line, or in conducting its business, which the said commission deems reasonable and expedient in order to promote the security, convenience, and accommodation of the public, such company shall, in the discretion of commission, be fined not less than \$100 nor more than \$1,000. *Pollard's Code 1904, sec. 1294c(27).*

Whenever in the judgment of commission it shall appear that repairs are necessary upon any railroad, or that any addition to its rolling stock, or addition or improvement in the equipment of any other transportation line, or any enlargement of or improvement in the stations or station houses, waiting rooms, wharves or landings, or any change in the mode of operating the road, or other transportation line and conducting its business, is reasonable and expedient in order to promote the security and accommodation of the public, it shall give ten days' notice in writing to the company or person operating the road, or other transportation line, of the improvements and changes which it
2453 adjudges to be proper, designating when and where the contemplated action in the premises will be considered and disposed of, and such company or person shall be afforded a reasonable opportunity to introduce witnesses and to be heard thereon, and any such company or person failing or refusing to obey any valid order or requirement of commission in the premises within such reasonable time, not less than ten days, as shall be fixed in the order of commission, it may impose upon any such company or person the fines and penalties prescribed by the constitution and by law for its or his failure to obey the orders and requirements of commission and the requirements of the law, and enforce the

payments and collection thereof by its judgments and processes.
Same, sec. 1313a(20).

See also par. 883.

WASHINGTON Whenever commission shall, after a hearing had upon its own motion or upon complaint, find that additional tracks, switches, terminals, terminal facilities, stations, motive power or any other property, apparatus, equipment, facilities or device for use by any common carrier in or in connection with the transportation of persons or property ought reasonably to be provided, or any repairs or improvements to or changes in any theretofore in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto, in order to promote the security or convenience of the public or employes, or in order to secure adequate service or facilities for the transportation of passengers or property, commission may after a hearing either on its own motion or after complaint make and serve an order directing such repairs, improvements, changes or additions to be made. *Laws 1911, ch. 117, sec. 64.*

2444

See also par. 2408.

J. CHARACTER AND KIND OF SERVICE AND SERVICE STANDARDS.

ARIZONA, CALIFORNIA

Commission may, after hearing had upon its own motion or upon complaint, ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations; ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished or rendered by any such public utility;¹ prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility. *Ariz.—Sess. Laws 1912, ch. 90, sec. 46(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 46(a).*

2445

The commissioners² and their officers and employes may

¹ "Public service corporation," in Arizona.

² "Commission," in Arizona.

enter upon any premises occupied by any public utility,¹ for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act, and set up and use on
2466 such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility¹ shall have the right to be present at the making of such examinations and tests. *Same, sec. 46(b).*

CONNECTICUT Commission may fix the standard of illuminating and heating power, purity, and quality of gas, fix the initial efficiency of electric lamps furnished by electric companies,
2467 and investigate and make orders regarding the pressure at which gas, and the voltage at which electricity, shall be distributed. *Pub. Acts 1911, ch. 128, sec. 19.*

KANSAS Commission may ascertain and prescribe for each kind of public utility suitable and convenient standard commercial units of products in service. These shall be the lawful
2468 units for the purposes of this act. It shall prescribe reasonable regulations for examinations and testing of such products or service and for the measurement thereof. *Laws 1911, ch. 238, sec. 22.*

See also par. 2497.

MARYLAND Commission may investigate and ascertain from time to time, the quality of gas supplied by persons and corporations, examine the methods employed by such persons, corporations, in manufacturing, selling, delivering or supplying gas
2469 or electricity for light, heat, or power and in transmitting the same. *Laws 1910, ch. 180, sec. 31¾.*

Commission may by order fix the standard illuminating power and purity of gas, not less than that prescribed by law, both natural gas and gas to be manufactured, distributed or sold by persons, corporations, for lighting, heating or power purposes, and prescribe methods of regulation of the electric supply system as to the use for incandescent lighting, and fix the initial efficiency of incandescent lamps furnished by the persons, corporations, generating and selling electric current for lighting, and by order require the gas so manufactured, distributed or sold to equal the standards so fixed by it, and establish regulations as to pressure
2470 at which gas shall be delivered, for the purpose of determining whether the gas manufactured, distributed or sold by such persons or corporations for lighting, heating or power purposes con-

¹ "Public service corporation," in Arizona.

forms to the standard of illuminating power and purity, and, of its own motion, examine and investigate the methods employed in bringing in, obtaining, manufacturing, delivering and supplying gas, and shall have access through its members or persons employed and authorized by it to make examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission or distribution of gas or electricity by any such person or corporation. *Same.*

Any employe or agent of commission who divulges any fact or information which may come to his knowledge during the
2471 course of any such inspection or examination, except in so far as he may be directed by the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor. *Same.*

Commission, its agents, experts and inspectors may enter upon any premises occupied by any corporation to which the provisions of this act or any of them are applicable, for the purpose of making the examinations, inspections, valuations and
2472 tests contemplated as provided for in this act, and set up and use on such premises any apparatus and appliances and occupy reasonable space therefor for the purpose of said examinations, inspections and tests. *Same, sec. 50.*

See also par. 925.

MASSACHUSETTS Every gas light company which annually manufactures or sells more than 15 million cubic feet of gas shall, when required by gas and electric commission, provide and maintain a suitable room at least a quarter of a mile from the gas works
2473 with a disc photometer and its appurtenances of a construction approved by commission which shall be open to the inspector and assistant inspectors on every working day from eight o'clock in the morning until six o'clock in the afternoon. *Rev. Laws 1902, ch. 58, sec. 13.*

The gas of every company which supplies more than 50 consumers, except gas made and used exclusively for heating,
2474 cooking, chemical and mechanical purposes, shall be inspected at least twice a year and as much oftener as the gas and electric commission may determine. *Same, sec. 14.*

The gas shall be tested for illuminating power by means of a disc photometer and during such test shall be burned from the burner best adapted to it which is at the same time suitable for domestic use and at as near the rate of five feet an hour as is practicable. Gas and electric commission shall for the purpose

2476 of establishing a standard of purity for gas and after a public hearing determine how many grains of sulphur and ammonia per 100 cu. ft. of gas may be permitted and may change such standards from time to time after a public hearing; but not more than 30 grains of sulphur per 100 cu. ft. and no sulphureted hydrogen shall be allowed. *Same.*

If the gas of any gas company or of any city or town supplying gas is found on three consecutive inspections, or on three inspections made within a period of 30 consecutive days, to give less light than 16 standard English candles, or upon such averaging of inspections as commission may prescribe, to be below the standard of purity fixed under this act, unless such defect is in the opinion of commission due to unavoidable cause or accident, a fine of \$100 shall be paid by such company, city or town into the treasury of the commonwealth. *Same.*

If during the test the consumption of gas varies from five feet an hour, or the candle from 120 grains an hour, a proportionate correction shall be made for the candle power. Upon complaint and after notice and hearing commission may require a company to supply such gas as will give, when tested in the manner prescribed in this section, a light equivalent to such number of standard English candles, not less than 16, as commission may determine. *Same.*

Commission shall, from time to time, ascertain what degree of purity can reasonably be required in gas made and supplied by corporations and companies engaged in the manufacture and sale of gas for light or heat, and shall report to the general court, when, in its opinion, any change in the law relative thereto is desirable. *Rev. Laws 1902, ch. 121, sec. 6.*¹

See also pars. 280, 930, 931, 2501, 2508.

MICHIGAN Commission may in its discretion order electric current for distribution to be delivered at a suitable primary voltage to any city, village or township through which a transmission line or lines may pass. *Pub. Acts 1909, no. 106, sec. 5.*

NEW HAMPSHIRE Commission may investigate and ascertain, from time to time, the quality of gas supplied by public utilities and the methods employed by such public utilities in manufacturing or supplying gas or electricity for light, heat or power, or in transmitting telephone and telegraph messages, or supplying water, and after notice and hearing thereon may order all reason-

¹ See footnote 1, par. 276.

able and just improvements and extensions in service or methods.
Laws 1911, ch. 164, sec. 5(c).

See also par. 983.

NEW JERSEY

Commission may after hearing, by order in writing, fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed, and followed thereafter by any public utility. *Laws 1911, ch. 195, sec. 16(e).*

Commission may after hearing, by order in writing, ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product or service rendered by any public utility and prescribe reasonable regulations for examination and test of such product or service and for the measurement thereof. *Same, sec. 16(f).*

See also pars. 2510, 2511.

NEW YORK

Commission shall investigate and ascertain from time to time, the quality of gas supplied by persons and corporations; examine or investigate the methods employed by such persons and corporations in manufacturing, distributing and supplying gas or electricity for light, heat or power and in transmitting the same, and may order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas or electricity and those employed in the manufacture and distribution thereof; and have power to order reasonable improvements and extensions of the works, wires, poles, conduits, ducts and other reasonable devices, apparatus and property of gas corporations, electrical corporations and municipalities. *Laws 1910, ch. 480, sec. 66(2).*

Commission may by order fix from time to time standards for the measurement of the purity or illuminating power of gas to be manufactured, distributed or sold by persons, corporations or municipalities for lighting, heating or power purposes, and prescribe from time to time the efficiency of the electric supply system, of the current supplied and of the lamps furnished by the persons, corporations or municipalities generating and selling electric current, and by order require the gas so manufactured, distributed or sold to equal the standards so fixed by it, and prescribe from time to time the reasonable minimum and maximum pressure at which gas shall be delivered by said persons, corporations or municipalities. For the purpose of determining whether

2484 the gas manufactured, distributed or sold by such persons, corporations or municipalities for lighting, heating or power purposes conforms to the standard of illuminating power, purity and pressure, and for the purpose of determining whether the efficiency of the electric supply system, of the current supplied and of the lamps furnished conforms to the orders issued by commission, commission may, of its own motion examine and investigate the plants and methods employed in manufacturing, delivering and supplying gas or electricity, and shall have access through its members or persons employed and authorized by it to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacturing, transmission or distribution of gas or electricity by any such person, corporation or municipality. *Same, sec. 66(3).*

2485 Also a provision identical with par. 2471. *Same.*
See also pars. 990, 2515, 2517.

OHIO Commission shall ascertain and prescribe suitable and convenient standard commercial units of the product or service of any public utility, when the character of its product or
2486 service is such that it can be determined, and such units shall be the lawful units for the purposes of this act. *Laws 1911, no. 325, sec. 36.*

Commission may ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial volt-
2487 age or other condition pertaining to the supply or quality or the product or service rendered by any public utility and prescribe reasonable regulations for examination and testing of such product or service and for the measurements thereof. *Same, sec. 38.*

See also pars. 1003, 2521.

OREGON Commission shall ascertain and prescribe for each kind of public utility suitable and convenient standard com-
2488 mercial units of product or service. These shall be lawful units for the purposes of this act. *Gen. Laws 1911, ch. 279, sec. 21.*

Commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial volt-
2489 age or other conditions pertaining to the supply of the product or service rendered by any public utility and prescribe reasonable regulations for examination and testing of such products and service and for the measurement thereof. *Same, sec. 22.*

See also pars. 2523, 2527.

REHODE ISLAND Commission may after having given any public utility concerned a reasonable notice and an opportunity to be heard determine and fix by order the standard amount, quality, pressure, initial voltage and character of each kind of product or service to be furnished or rendered by any public utility, and
2490 standard condition or conditions pertaining to furnishing or rendering the same, and thereafter the public utility concerns shall furnish and render the same accordingly, but with and subject to the right of appeal given by section 34 hereof. *Acts 1912, ch. 795, sec. 45.*

2491 Also a provision identical with par. 2489. *Same, sec. 46.*
See also pars. 2529, 2601.

VERMONT *See par. 351.*

WASHINGTON Whenever commission shall find, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, or the purity, volume and pressure of water, supplied by any gas, electrical or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it shall order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the storage, distribution or supply of water, or in the methods employed by such gas, electrical or water company, as will in its judgment be efficient, adequate, just and reasonable. *Laws 1911, ch. 117, sec. 54.*
See also pars. 2409, 2531, 2532, 2607.

WISCONSIN Provisions identical with pars. 2488, 2489.
2492 *Laws 1907, ch. 499, secs. 1797m-22, 1797m-23(1).*

Nothing contained in this section shall limit in any manner
2494 any powers or authority vested in municipal corporations, as provided in section 1797m-87. *Same, sec. 1797m-23(3).*
See also pars. 2537, 2538.

K. REGULATION OF METERS.

ARIZONA, CALIFORNIA

Any consumer or user of any product, commodity or service of a public utility¹ may have any appliance used in the measurement thereof tested upon paying the fees fixed by commission. Commission shall establish and fix reasonable fees

¹ 'Public service corporation,' in Arizona.

to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility¹ and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by commission. *Ariz.*—*Sess. Laws 1912, ch. 90, sec. 46(c)*; *Cal.*—*Stats. 1911, 1st. ex. sess., ch. 14, sec. 46(c)*.

See also par. 2465.

CONNECTICUT Upon petition of any person and the payment by such person of a fee of \$1 for each meter, commission shall cause to be inspected any electric, gas or water meter used in measuring electricity, gas, or water supplied to such petitioner. The company supplying electricity, gas, or water through such meter shall reimburse the petitioner for said fee if such meter be found to be more than two per cent. fast, in the case of a gas meter, or four per cent. fast, in the case of an electric or water meter, and shall not again use such meter until corrected, and approved by commission. Commission shall cause to be approved every electric, gas or water meter in which the error does not exceed two per cent. for gas meters or four per cent. for electric or water meters, and shall cause the same to be stamped with some suitable device and the date of approval. *Pub. Acts 1911, ch. 128, sec. 20.*

KANSAS Commission shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by commission relative thereto. *Laws 1911, ch. 238, sec. 22.*

MARYLAND Commission shall appoint inspectors of gas and electric meters, whose duty it shall be to inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of illuminating or fuel gas, or natural gas, furnished by any gas corporation to or for the use of any person, and any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electrical current furnished for light, heat and power by any electrical corporation to or for the use of any person or persons, and when found to be or made to be correct, the inspector shall stamp or mark all such meters and each of

¹ "Public service corporation," in Arizona.

them with some suitable device, which device shall be recorded in the office of the secretary of state. *Laws 1910, ch. 180, sec. 31¾.*

No corporation or person shall furnish or put in use any gas meter which shall not have been inspected, proved and sealed, or any electric meter which shall not have been inspected, approved, stamped or marked by an inspector of commission. Every gas and electric corporation shall provide and keep in and upon its premises
2499 a suitable and proper apparatus, to be approved and stamped or marked by commission, for testing and proving the accuracy of gas and electric meters furnished by it for use, and by which apparatus every meter may and shall be tested, on the written request of the consumer to whom the same shall be furnished and in his presence if he desires it. *Same.*

If any consumer to whom a meter has been furnished shall request commission to inspect such meter, commission shall have the same inspected and tested; if the same, on being tested, shall be found to be four per cent., if an electric meter, or two per cent., if a gas meter, defective or incorrect, to the prejudice of the consumer,
2500 the inspector shall order the gas or electrical corporation forthwith to remove the same and to place instead thereof a correct meter, and the expense of such inspection and test shall be borne by the corporation; if the same, on being so tested, shall be found to be correct, the expense of such inspection and test shall be borne by the consumer. A uniform reasonable charge shall be fixed by commission for this service. *Same, sec. 32.*

MASSACHUSETTS The unit of measure for the sale of illuminating gas by meter shall be the cubic foot, containing 62 321 / 1000
2501 pounds avoirdupois weight of distilled or rain water, weighed in air of the temperature of 62 degrees, Fahrenheit scale, the barometer being at 30 inches. *Rev. Laws 1902, ch. 58, sec. 8.*

Every gas light company with a capital paid in of \$100,000 or more, and every other gas light company if required by the gas and electric commission, and all makers and vendors of meters shall set up at some convenient place upon their premises one or more meter provers of a size and type approved, tested and calibrated by commission by means of which meters may be tested.
2502 A meter shall not be stamped correct if it varies more than two per cent. from the standard measure. Commission shall keep a correct record of all meters examined by its inspectors with their proof at the time of inspection, which shall be open at all times for examination by the officers of any gas light company. *Same, sec. 9.*

A gas company providing a meter for measuring gas supplied to a customer which has not been duly sealed and stamped shall be punished by a fine of \$5 for every such meter in use, payable to the city or town in which the meter is situated. *Same, sec. 10.*

Meters in use shall be tested by the inspector or by one of his assistants or a deputy on the request of the consumer or of the gas light company, in the presence of the consumer if desired, and with sealed apparatus. If he finds that the meter is correct, the person requesting the inspection shall pay the fees for such inspection and the expenses of removing the meter for the purpose of being tested, and the reinspection shall be stamped on the meter. If he finds that the meter is incorrect, the gas light company shall pay such expenses and shall furnish a new meter without charge to the consumer. *Same, sec. 11.*

Meters for measuring gas supplied to consumers shall register the quantity of gas passing through them in cubic feet so that the number of cubic feet of gas consumed can be easily ascertained by the consumer thereof. No meter shall be used which may confuse or deceive the consumer in ascertaining the price he pays per 1,000 cu. ft. or the number of cubic feet consumed. No charge for the use of a meter during any portion of twelve consecutive months shall be made if the consumer during said time uses gas to the value of \$7. *Same, sec. 12.*

A customer of an electric lighting company or such company may apply to the gas and electric commission for an examination and test of any meter in use upon a customer's premises. Commission shall forthwith cause to be made by a competent and disinterested person such examination and test of said meter, if any, as in its judgment is practicable and reasonable, and shall furnish to the company and to the customer a certificate of the result and expense thereof. If upon such examination it appears that the meter does not register correctly, commission may order the company to correct or remove such meter and to substitute a correct meter therefor. All fees for examinations and tests shall in the first instance be paid by the person or company making application therefor; but if the examination or test is made at the request of a customer and the meter is found to be incorrect because too fast the company shall pay such fees to commission to be repaid by it to the applicant. A meter shall be deemed correct for the purposes of this section if it appears from such examination or test that it does not vary more than five per cent,

from the standard approved by commission. *Rev. Laws 1902, ch. 121, sec. 36.*

The person designated to make such inspection may at any reasonable time enter upon any premises where the meter to be inspected is placed for the purpose of making the inspection.

2807 Commission may establish such rules and regulations, fix such standards, prescribe such fees, and employ such means and methods in, and in connection with, such examinations and tests of electric meters, as in its judgment shall be most practicable, expedient and economical. *Same, sec. 37.¹*

2808 Commission may purchase such materials, apparatus and standard measuring instruments for examinations and tests as it may deem necessary. *Same.*

Inspectors subject to the rules and regulations prescribed by gas and electric commission shall make the inspections of gas required by section 14 of chapter 58 of the revised laws, and shall inspect, examine, ascertain and prove the accuracy of all meters which are to be used for measuring illuminating gas and are to be
2809 furnished to or for the use of any consumer or company, and shall seal, stamp or mark every such meter, if it be found to be correct, with some suitable device which shall be determined by commission and recorded in the office of the secretary of the commonwealth. They shall also perform such other duties and make such reports of their doings as commission may require. *Rev. Laws 1902, ch. 228, sec. 3.*

See also par. 207.

NEW JERSEY

Commission shall purchase such materials, apparatus and standard measuring instruments as it may deem necessary. *Laws 1911, ch. 195, sec. 8.*

Commission may after hearing, by order in writing, establish reasonable rules, regulations, specifications and standards, to secure the accuracy of all meters and appliances for measurements.
2811 *Same, sec. 16(g).*

Commission may provide for the examination and test of any
2812 and all appliances used for the measuring of any product or service of a public utility. *Same, sec. 16(h).*

Commission may by its agents, experts or examiners, enter upon any premises occupied by any public utility as herein defined, for the purpose of making the examinations and tests provided for in this act and to set up and use on such premises any
2813 apparatus and appliances necessary therefor. *Same, sec. 16(i).*

¹ See footnote par. 2367.

Commission may fix the fees to be paid by any consumer or user of any product or service of a public utility, who may apply to commission for such examination or test to be made, and any
2814 consumer or user may have any such appliance tested upon the payment of the fees fixed by commission, which fees shall be repaid to the consumer or user if the appliance be found defective or incorrect to the disadvantage of the consumer or user, and in that event, paid by the public utility. *Same, sec. 16(j).*

NEW YORK Each commission shall appoint inspectors of gas meters whose duty it shall be when required by commission to inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat or power furnished
2815 by any person or corporation to or for the use of any person or persons and when found to be or made to be correct, the inspector shall seal all such meters and each of them with some suitable device, which device shall be recorded in the office of the secretary of state. *Laws 1910, ch. 480, sec. 67(1).*

No corporation or person shall furnish, set or put in use any
2816 gas meter which shall not have been inspected, proved and sealed by an inspector of commission. *Same, sec. 67(2).*

Each commission shall appoint inspectors of electric meters whose duty it shall be, when required by commission, to inspect, examine and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat or power by any person or corporation to or for the use of any person or cor-
2817 poration, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No corporation, person or municipality shall furnish, set or put in use any electric meter the type of which shall not have been approved by commission. *Same, sec. 67(3).*

Every gas and electrical corporation shall provide, repair and maintain such suitable premises and apparatus and facilities as
2818 may be required and approved by commission for testing and proving the accuracy of gas and electric meters furnished for use by it, and by which apparatus every meter may be tested. *Same, sec. 67(4).*

If any consumer to whom a meter has been furnished shall request commission in writing to inspect such meter, commission shall have the same inspected and tested; if the same on being so tested shall be found to be more than four per cent. if an electric meter, or more than two per cent. if a gas meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the corporation, if the same on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this subdivision, the expense of such inspection and test shall be borne by the consumer. *Same, sec. 67(5).*

Commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. *Same, sec. 67(6).*

OHIO Commission may establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by commission relative thereto. *Laws 1911, no. 325, sec. 38.*

Commission may provide for the examination and testing of any and all appliances used for the measurement of any product or service of a public utility. Any consumer or user may have any such appliance tested upon payment of the fees fixed by commission. Commission may declare and establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fees to be paid by the consumer or user at the time the request is made, but to be paid by the public utility and repaid to the consumer or user if the appliance be found commercially defective or incorrect to the disadvantage of the consumer or user. *Same, sec. 39.*

OREGON Commission shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by commission relative thereto. *Gen. Laws 1911, ch. 279, sec. 22.*

Commission shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility, and may provide by rule that no such appliance shall be installed and used for the measuring of any product or service of any public utility until the same has been

examined and tested by commission and found to be accurate. Commission shall declare and establish a reasonable fee governing the cost of such examination and test which shall be paid to commission by the public utility. *Same, sec. 23.*

Commission shall declare and establish reasonable fees for the testing of such appliances on the application of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be repaid to the consumer or user by commission and to be paid by the public utility if the appliance be found defective or incorrect to the disadvantage of the consumer or user beyond such reasonable limit as may be prescribed by commission. All fees collected under the provisions of this section shall be paid by commission into the state treasury. *Same.*

Commission, its agents, experts, examiners or inspectors may enter upon any premises occupied by any public utility for the purpose of making any inspection, examination, or test provided in this act, and set up and use in such premises any apparatus and appliances and occupy reasonable space therefor. *Same, sec. 24.*

Commission may purchase such materials, apparatus and standard measuring instruments for such examinations and tests as it may deem necessary. *Same, sec. 25.*

Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of commission or its agent, or any apparatus or appliance sealed by it, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding \$100 or imprisonment for a period not exceeding 30 days or both. Any public utility knowingly permitting the destruction, injury to, or interference with any such apparatus or appliance, or with the seal affixed to any apparatus or appliance by direction of commission, shall forfeit a sum not exceeding \$1,000 for each such offense. *Same, sec. 70.*

RHODE ISLAND Provisions substantially identical with pars. 2521, 2522, except that "commission may" reads "commission shall." *Acts 1912, ch. 795, secs. 46, 47.*

A meter shall be deemed correct for the purposes of this section if it appears from such examination or test that it does not vary more than two per cent. from the standard approved by commission. *Same, sec. 47.*

WASHINGTON Commission may appoint inspectors of electric meters whose duty it shall be when required by commis-

sion to inspect, examine, prove and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat or power by any public service company to or for the
2531 use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device to be prescribed by the commission. No public service company shall furnish, set or put in use any electric meters the type of which shall not have been approved by commission. *Laws 1911, ch. 117, sec. 74.*

Commission may appoint inspectors of gas and water meters whose duty it shall be when required by commission to inspect, examine, prove and ascertain the accuracy of any and all gas and water meters used or intended to be used for measuring or ascer-
2532 taining the quantity of gas for light, heat or power, or the quantity of water furnished for any purpose by any public service company to or for the use of any person or corporation, and when found to be or made to be correct such inspectors shall seal all such meters and each of them with some suitable device to be prescribed by commission. *Same.*

No public service company shall thereafter furnish, set or
2533 put in use any gas or water meter which shall not have been inspected, proved and sealed by an inspector of commission under such rules and regulations as commission may prescribe. *Same.*

Every gas, electrical and water company shall prepare and maintain such suitable premises, apparatus and facilities as may
2534 be required and approved by commission for testing and proving the accuracy of gas, electric or water meters furnished for use by it by which apparatus every meter may be tested. *Same.*

Also a provision for gas, electrical and water companies
2535 substantially identical with par. 2519, except that a limit of error of two per cent. is provided for water meters. *Same.*

Commission shall prescribe such rules and regulations to
2536 carry into effect the provisions of this section as it may deem necessary, and shall fix the uniform and reasonable charges for the inspection and testing of meters upon complaint. *Same.*

WISCONSIN

Provisions identical with pars. 2521, 2522.
2537 *Laws 1907, ch. 499, secs. 1797m-23(2), 1797m-24(1), 1797m-24(2), 1797m-24(3).*

Commission may purchase such materials, apparatus and
2538 standard measuring instruments for such examinations and tests
as it may deem necessary. *Same, sec. 1797m-25.*

Commission, its agents, experts or examiners, may enter
upon any premises occupied by any public utility for the purpose
2539 of making the examination and tests provided in this act and set
up and on such premises any apparatus and appliances and
occupy reasonable space therefor. *Same, sec. 1797m-26.*

Any person who shall destroy, injure or interfere with any
apparatus or appliance owned or operated by or in charge of
commission or its agent shall be deemed guilty of a misdemeanor
2540 and upon conviction shall be punished by a fine not exceeding
\$100 or imprisonment for a period not exceeding 30 days or both.
Same, sec. 1797m-97(1).

Any public utility permitting the destruction, injury to, or
2541 interference with, any such apparatus or appliance, shall forfeit
a sum not exceeding \$1,000 for each offense. *Same, sec. 1797m-
97(2).*

L. FREE DELIVERY LIMITS OF EXPRESS, TELEPHONE AND TELEGRAPH COMPANIES.

ARKANSAS Commission is authorized and directed to de-
fine the limits in cities in which express companies shall make free
2542 delivery of all express packages received by them. *Acts 1911,
no. 356, sec. 2.*

Any express company refusing to establish and maintain the
offices or refusing to deliver free any express packages received by
them within the limits fixed by commission shall be guilty of a
misdemeanor for each failure or refusal to comply with the terms
2543 of this act or the orders of commission, and shall be fined in any
sum not exceeding \$100 for each offense, and each day that said
company refuses to establish and maintain such offices and each
refusal to deliver within the territory fixed by commission shall be
a separate offense. *Same, sec. 3.*

ARIZONA, CALIFORNIA

Commission may provide the time within
which express packages shall be received, gathered, transported
and delivered at destination, and the limits within which express
2544 packages shall be gathered and distributed and telegraph and
telephone messages delivered without extra charge. *Ariz.—
Sess. Laws 1912, ch. 90, sec. 45(b); Cal.—Stats. 1911, 1st. ex.
sess., ch. 14, sec. 45(b).*

ILLINOIS

Commission may upon complaint or its own initiative, after notice to the express companies or carriers by express affected, fix and determine the territory in any city or village having a population of 2,500 or more inhabitants according to the last preceding United States census within which territory such express companies and carriers by express shall thereafter deliver all merchandise, property, parcels, packages, money and other commodities and things transported by them to all consignees within such territory at the place of address as directed on the package, parcel, commodity or thing transported and
2545 thereafter all such express companies and carriers by express shall deliver all merchandise, property, parcels, packages, money and other commodities and things transported by them, and each of them, to all consignees within such territory, at the place of address as directed on the package, parcel, commodity or thing transported. Any such express company or carrier by express, or any officer, representative, servant, agent, lessee, trustee or receiver of such express company or carrier by express, who knowingly violates any of the provisions of this section shall be fined in any sum not more than \$100 to be recovered in an action of debt in the name of the people of the state of Illinois. *Revisal 1909, ch. 114, sec. 376.*

MISSISSIPPI

See par. 2319.

MISSOURI

Commission may and shall upon the complaint of ten or more citizens of any incorporated city or town of the state, which now has or may hereafter have a population of 1,000 or more inhabitants according to the last preceding United States census fix and define and establish in any such city or town, by its order, the boundaries of a free delivery zone and require all express companies, to deliver such express matter transported between points wholly within the state to all consignees to whom the same is directed, living within the limits of such free delivery zone as established by said commission, as one continuous shipment and without an additional delivery charge being made there-
2546 for at the place of delivery; prescribe a uniform contract for the shipment of all express matter between points wholly within this state, and require the use of the same by all express companies doing business in the state; require all express companies, to paste conspicuously on each package received for shipment between points wholly within the state, a label designed and reading, "collect" or "paid," with "amount," "weight," "date";

make, promulgate and enforce all other necessary rules and regulations for the shipment of any express matter between points wholly within the state. *Rev. Stats. 1909, sec. 3288(d).*

WASHINGTON Commission may by proper rules and regulations provide the extent of free gathering and distributing limits **2847** for express packages in cities and towns. *Laws 1911, ch. 117, sec. 59.*

CHAPTER VIII

Safety of Operation

SCOPE NOTE

This chapter includes grants of power authorizing commissions to regulate utilities with regard to the safety of the service rendered. Provisions prescribing by legislative enactment specific safety appliances and standards of safety, even when enforcement is left to commissions, have been excluded. For provisions incidentally involving questions of safety, see ch. iv, on establishment and change of rates, and ch. vii, on service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

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A. GENERAL AUTHORITY OF COMMISSION WITH RESPECT TO SAFETY OF OPERATION.¹

CONNECTICUT No part of any railroad or street railway shall be opened for public travel unless the company operating such
2548 railroad or street railway shall first obtain a certificate signed by commission that it is in a suitable and safe condition. *Gen. Stats. 1902, sec. 3886.*

Commission shall, from time to time, recommend to the several companies operating steam railroads and street railways in the state, or to any of them, the adoption of such measures and
2549 regulations as such commission deems conducive to the public safety or interest; and shall report to the next general assembly any neglect on the part of any such company to comply with any such recommendation. *Same, sec. 3895.*

FLORIDA Commission shall make and adopt reasonable rules and regulations requiring railroad companies and other common carriers operating railroads wholly or in part in the state
2550 to maintain the roadbeds, rights of way, tracks, depots, rolling stock, and other fixtures and equipment of such railway lines within the state in a safe and proper condition. *Laws 1907, ch. 5622, sec. 2.*

Commission shall require all railroad companies operating railroads, either in whole or in part within the state, to construct
2551 and maintain all their switches and switching devices in a safe manner and condition. *Same, sec. 3.*

If any railroad company, or other common carrier, operating a railroad wholly or in part in the state, shall refuse to comply with any rule, order or regulation provided or prescribed by commission under the authority of this act, or shall otherwise violate any
2552 of the provisions of this act, such company or common carrier shall thereby incur a penalty for each such offense of not more than \$5,000 to be fixed, imposed and collected by commission in the manner provided in section 2908 of the general statutes of the state of Florida. *Same, sec. 4.*

MAINE No passenger train shall be run over any new railroad, or over any railroad in process of construction, until commission has made an inspection of such railroad and granted

¹ See also pars. 2273-2314, 2381-2464.

a certificate of its safety for public travel. Any person or corporation, violating the provisions of this section, forfeits to the state \$100 for each offense, to be recovered in an action on the case, or by complaint and indictment; and the attorney general shall institute proceedings to recover the same. *Rev. Stats. 1903, as amended, ch. 51, sec. 51.*

No street railroad shall be operated for street traffic until commission has made an inspection of such railroad and granted a certificate of its safety for public travel. Any person or corporation violating the provisions of this section, forfeits to the state \$100 for each offense, to be recovered in an action on the case, or by complaint and indictment, and the attorney general shall institute proceedings to recover the same. *Rev. Stats. 1903, ch. 53, sec. 20.*

MASSACHUSETTS No street railway or portion or extension thereof shall be opened for public use until railroad commission, after an examination, certifies that all laws relative to its construction have been complied with, and that it appears to be in a safe condition for operation; but nothing herein contained shall be construed as compelling commission to grant such certificate until the entire road included in the location of such railway, portion or extension has been completed. *Acts 1906, ch. 463, pt. iii, sec. 73.*

NEVADA Commission may determine and order the use of safety appliances in the interest of employes and the traveling public, such as crossing-gates, flagmen, bells, devices, etc., interlocking plants at railway crossings and all other modern safety devices. Commission may determine and order the manner in which any railroad, street railway, steam or electric railway, or other common carrier, may cross another railroad, street railway, whatever the motive power, at grade, or above or below grade, and shall prescribe the safety appliances and regulations that should be adopted at such crossings or at existing grade crossings of railroads, steam, electric, or other motive power railways for the protection of the public and the prevention of accidents. *Stats. 1907, ch. 44, sec. 7, as amended by Stats. 1909, ch. 121, sec. 3.*

NEW MEXICO Commission shall require all intrastate railways, transportation companies or common carriers, to provide such reasonable safety appliances in connection with all equipment, as may be necessary and proper for the safety of its em-

ployes and the public, and as are now or may be required by the federal laws, rules and regulations governing interstate commerce. *Const., art. xi, sec. 7.*

NORTH CAROLINA Commission may make any necessary and proper rules, orders and regulations for the safety, comfort and
2558 convenience of passengers, shippers or patrons of any public service corporation, and require the observance of the same by the company and its employees. *Acts 1907, ch. 469, sec. 1(a).*

SOUTH CAROLINA No railroad, branch, or extension of a railroad, shall hereafter be opened for public use until commission, after an examination, certifies that all laws relating to the construction
2559 thereof have been complied with, and that the road appears to be in a safe condition for operation, unless commission shall, after the ten days' written notice to it by said railroad company of such proposed opening, fail to make such examination and certificate. *Gen. Stats. 1902, sec. 2136.*

WASHINGTON *See par. 1044.*

WISCONSIN Upon the completion of the construction of any railroad or extension or branch thereof, under the specification as approved by commission, the applicant company shall, before operating said railroad, or extension or branch thereof, excepting for construction purposes, and before opening the same to public service, report the same to commission and commission shall thereupon inspect and examine said railroad, or extension or branch thereof, or cause the same to be inspected and examined, and if it shall be found that the same has been constructed in
2560 accordance with said specification as approved and is otherwise suitable and properly constructed so as to conserve and protect the public safety in the operation thereof, commission shall grant to said applicant railroad an order authorizing it to operate the same, which order shall be presumptive evidence of the sufficiency of such construction. Said order shall specify in general terms the methods and conditions of such operation and it shall not be lawful for any such railroad or extension or branch thereof, to be operated till such order has been so granted and obtained. *Laws 1907, ch. 454, sec. 1797-57, as amended by Laws 1909, ch. 475.*

Commission may establish reasonable rules, regulations,
2561 specifications, and standards for the installation, operation, and maintenance of all safety devices and measures. *Laws 1911, ch. 297, sec. 1797-9b.*

B. AUTHORITY OF COMMISSION TO EXAMINE, INSPECT OR INVESTIGATE EQUIPMENT OR FACILITIES, TO ORDER REPAIRS AND SAFETY APPLIANCES AND TO FIX STANDARDS OF SAFETY.¹

ALABAMA

See par. 243.

ARIZONA

Commission may, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, require every public service corporation to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employes, passengers, customers, and the public, and to this end prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling, establish uniform or other standards of equipment, and require the performance, of any other act which the health or safety of its employes, passengers, customers or the public may demand. *Sess. Laws 1912, ch. 90, sec. 42.*

ARKANSAS

Commission shall, as often as it deems it necessary, carefully examine the condition of the several railroads of the state; and commission, whenever it has reasonable grounds to believe either on complaint or otherwise that any of the tracks, bridges, or other structures of any railroads in the state, are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety, inspect and examine the same; and if on such examination in its opinion or in the opinion of a majority of commission, any such tracks, bridges, or other structures, or works, are unfit for the transportation of passengers with reasonable safety, it shall give to the superintendent or other executive officer of the company working or operating said defective tracks, bridges, or other structures, notice of the condition thereof, and of the repairs necessary to place same in safe condition; and may also order and direct the speed of trains over such dangerous and defective tracks, bridge, or other structure, until said repairs are made, and the time within

¹ See also pars. 2417-2434.

which the repairs shall be made by the company; and if any such superintendent or executive officer aforesaid, receiving such notice and order, shall wilfully neglect, for the period of two days after receiving such notice and order, to direct the proper subordinate officers to move the passenger trains over such defective tracks, bridge, or other structure, at the speed prescribed by commission, or if any engineer, conductor or other employe of such company shall disobey such order of superintendent or officer
2563 whose duty it is to issue said order, every such superintendent, conductor, engineer, or other employe shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding \$500 or be imprisoned in the county jail of the proper county for a period not exceeding one year, or both, at the discretion of the court, and in case the disregard of the instructions of commission shall cause any accident whereby human life shall be lost or passengers maimed or wounded, the said superintendent of the said company, and the engineer and conductor in charge of such train, shall severally be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the penitentiary for a period of not less than two nor more than ten years, and commission may wholly stop the running of passenger trains over such defective track, bridge, or other structure; and it is hereby required, in case any company fails to repair such track, bridge, or other structure within the time required, to give notice to such fact in some newspaper having a general circulation along the line of said railroad, to the traveling public. And, furthermore, commission may recover from said railroad company the sum of \$1,000 for each day that expires after the time fixed by commission for the repair of such defective track, bridge, or other structure, for such neglect to repair the same, unless good and sufficient cause can be shown for such failure to repair such defective track, bridge, or other structure, to be recovered before any court having competent jurisdiction, for the use and benefit of the state, after paying the costs of the advertisement herein provided for. *Acts 1909, no. 163, sec. 1.*

The provisions of this act shall be regarded as cumulative, and nothing herein shall be so construed as to repeal any other
2564 act now in force, nor to in any way curtail or limit the powers and duties of commission. *Same, sec. 2.*

CALIFORNIA

For public utilities, a provision identical with
2565 par. 2562. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 42.*

CONNECTICUT

Commission shall examine the several railroads and street railways in the state once in each year, and oftener when it deems that public safety so requires, and shall make a like examination of any railroad or street railway within
2544 the limits of any town, when so requested in writing by the selectmen of such town or by the authorities having control and supervision of the streets and highways therein, and shall see that such railroads and railways are kept in suitable repair, and that the companies operating them faithfully comply with all provisions of law. *Gen. Stats. 1902, sec. 3887.*

If, upon examination of any railroad or the affairs of any railroad company, commission shall be of opinion that such road is in such condition, or that the affairs of such company are so conducted, as to endanger public safety, or that the company has violated the law or refused to obey the directions of commission
2547 or of the superior court, or any judge thereof, it may within one year after said examination make application to any judge of such court for an injunction to restrain any person from exercising or attempting to exercise the duties of any officer in such company; and such judge may proceed thereon as the superior court may do on complaints for injunctions. *Same, sec. 3897.*

Commission shall, so far as is practicable, keep fully informed as to the condition of the plant, equipment, and manner of operation of all public service companies, in so far as the safety of the public and of the employes of such companies may
2548 be involved, and may order such reasonable repairs or alterations in such plant or equipment, or such changes in the manner of operation, as may be reasonably necessary for public safety or for the health or safety of said employes. *Pub. Acts 1911, ch. 128, sec. 13.*

Any person or any town, city, or borough may make complaint, in writing, to commission, of any defects in any portion of the plant or equipment of any public service company, or of the manner of operating such plant, by reason of which the public
2549 safety or the health or safety of employes is endangered; and, if he or it so requests, the name of the complainant shall not be divulged unless in the opinion of commission the complaint is such that publicity is demanded. *Same, sec. 14.*

Upon receipt of such complaint commission shall fix a time and place for hearing thereon, and shall give due notice thereof to all parties in interest, and shall make such further investigation into the alleged conditions as it shall deem necessary. If,

upon such hearing, commission shall find the conditions to be
2570 dangerous to public safety or to the safety of employes, it shall
make such order as may be necessary to remedy the same, and
shall furnish a copy of such order to the complainant, upon re-
quest. If commission finds that the complaint is not justified, it
shall so notify the complainant in writing, by registered letter,
specifying the reasons for such finding, and shall file a copy of
such notification in the office of commission. *Same, sec. 15.*

Every public service corporation shall comply, immediately,
with any order of commission made in accordance with the
provisions of the preceding section, and any company failing
2571 to comply with any such order shall be fined not more than
\$1,000 for each offense, and shall be liable in double damages
for any injury or damage resulting to any person from such
failure. *Same, sec. 16.*

GEORGIA Commission shall upon complaint made, in-
spect for itself, or through an agent, the railroads or any railroad
or any part of any railroad in the state, and if the same is found
in an unsafe or dangerous condition, require the same put and
kept in such condition as will render travel over the same safe
2572 and expeditious; provided, that reasonable time be given the
railroad authorities in which to accomplish the work or repairs
that may be required or ordered; provided, that this act shall not
limit or affect the liability of railroads in cases of damage to per-
son or property. *Acts 1891, no. 710, sec. 1.¹*

Any railroad failing or refusing to obey the orders of com-
mission within the time allowed for said work, shall be liable to a
penalty of not more than \$5,000 to be recovered by a suit brought
2573 in the name of the state, in which suit the attorney general or
solicitor general shall represent the state, and his fees shall be
the same as now provided by law. Suits shall be brought in the
county where the wrong or violation occurs. *Same, sec. 2.*

ILLINOIS Whenever it shall come to the knowledge of
commission by complaint or otherwise, that any railroad bridge
or trestle, or any portion of the track of any railroad in the state
is out of repair, or is in an unsafe condition, commission shall in-
vestigate, or cause an investigation to be made of the condition

¹ Commission, upon complaint made, shall inspect for themselves, or through an agent
any railroad or any part of any railroad in this state, and if the same is found in an unsafe
or dangerous condition, it shall require the same put and kept in such condition as will
render travel over the same safe and expeditious; reasonable time shall be given the rail-
road authorities in which to accomplish the work or repairs required. This section shall
not limit or affect the liability of railroads in cases of damage to person or property. *Code*
1911, sec. 2639.

of such railroad bridge, trestle or tracks, and may employ such person or persons who may be civil engineer or engineers, as it shall deem necessary for the purpose of making such investigation, and whenever in the judgment of commission after such investigation, it shall become necessary to rebuild such bridge, track or trestle, or repair the same, commission shall give notice and information in writing to the corporation of the improvements and changes which it may deem to be proper. And shall recommend to the corporation or person or persons owning or operating such railroad, that it, or he, or they, make such repairs, changes or improvements, or rebuild such bridge or bridges on such railroad, as commission shall deem necessary to the safety of persons and property being transported thereon. And commission shall give such corporation or person or persons owning or operating said railroad an opportunity for a full and fair hearing on the subject of such investigation and recommendation. And commission shall, after having given such corporation or person or persons operating such railroad an opportunity for a full hearing thereon, if such corporation or person shall not satisfy commission that no action is required to be taken by it or them, fix a time within which said changes or repairs shall be made, or such
2874 bridges, tracks or culverts shall be rebuilt, which time commission may extend. It shall be the duty of the corporation, person, or persons, owning or operating said railroad to comply with such recommendations of commission as are just and reasonable. And the supreme court or the circuit court in any circuit in which said railroad may be in part situated, shall have power in all cases of such recommendations by commission to compel compliance therewith by mandamus. If any such corporation or person or persons owning or operating any such railroad shall, after such hearing, neglect or refuse to comply with the recommendation or recommendations of commission as to making any repairs, changes or improvements on any bridge, track or trestle, or to rebuild any bridge within the time fixed by commission therefor, commission shall report such neglect or refusal, together with the facts in such case, touching the necessity for such repairs, changes or rebuilding to the attorney general of the state, who shall thereupon take such action as may be necessary to secure compliance with such recommendations of commission. In all actions or proceedings brought by the attorney general to compel compliance with the recommendations of commission the findings of commission shall be prima facie evidence of the facts

therein stated, and the recommendation of commission shall be deemed prima facie just and reasonable. Nothing herein contained shall impair the legal liability of any railroad company for the consequence of its acts. And all existing remedies therefor are hereby saved to the people and to individuals. *Revisal 1909, ch. 114, sec. 177a.*

IOWA

Commission shall, from time to time, carefully examine into and inspect the condition of each railroad, its equipment and the manner of its conduct and management within the state; shall make semi-annual examinations of its bridges and report the condition thereof to the company to
2875 which they belong; and if found by it unsafe it shall immediately notify the railroad company whose duty it is to put the same in repair, which shall be done by it within ten days after receiving such notice. If any corporation fails to perform this duty, commission may forbid and prevent it from running trains over the same while unsafe. *Code 1897, sec. 2113.*

KANSAS

See par. 264.

LOUISIANA

Commission shall inspect railroads and require them to keep their tracks and bridges in a safe condition
2876 and enforce the same by having the penalties hereby prescribed inflicted through the proper courts having jurisdiction. *Const., art. 284.*

MAINE

A majority of commission or one member thereof annually between the first of April and October and at any other time on application or whenever they think necessary shall carefully examine the tracks, rolling stock, bridges, viaduct and culverts of all railroads; and shall annually in
2877 December make a report to the governor of their official doings, therein stating the condition of the road and rolling stock, with such facts as they deem of public interest or which he may require; and all persons managing railroads shall give commission such information as they at any time request. *Rev. Stats. 1903, ch. 51, sec. 50.*

Every railroad corporation shall, when requested by commission, have an examination made of any iron bridge or other structure, by a competent and experienced mechanical engineer, who shall report to commission forthwith the results of his
2878 examinations, his conclusion and recommendations, and trans-

mit a copy of the same to the corporation. The report shall furnish such information in detail, and with such drawings and prints, as may be in writing requested by commission. *Same, sec. 52.*

Every railroad corporation shall furnish all reasonable
2879 facilities to commission for the prompt and faithful discharge of the duties prescribed under this chapter. *Same, sec. 53.*

If commission at any examination, find the track, culverts, bridges or rolling stock in use so out of repair as to be unsafe for
2880 travelers, it shall immediately notify the managers of said road of its condition, and the time in which the repairs shall be made; and may require them to reduce the speed of all trains until the repairs are made. *Same, sec. 54.*

If said managers do not comply with such requirements, commission shall petition the supreme judicial court in any county where the railroad extends, setting forth its examination, the condition of the road, the notice and requirement, and refusal to comply; and shall notify the attorney general or the attorney of such county, of the filing of said petition, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the
2881 managers of the road as it deems necessary to secure the safety of travelers; and unless such managers execute a bond to the state, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or otherwise satisfy the court that they will be so made, the court shall issue an injunction on said corporation and its managers, prohibiting the running of any passenger trains over the portion of the road found to be unsafe, until the order has been complied with or revoked. *Same, sec. 55.*

When, in the opinion of commission, the passage of passenger trains over any portion of a railroad would be attended with imminent danger, it may notify the president or superintendent of such road and order the immediate stopping of all passenger
2882 trains about to run over such portion thereof. If its order is not obeyed, commission shall at once apply to some justice of the supreme judicial court, who may, upon satisfactory proof of the necessity for such order, and without notice to said company, issue an injunction prohibiting the running of passenger trains over said road until further order of the court. *Same, sec. 56.*

Bridges erected by any municipality, over which any street railroad passes, shall be constructed and maintained in such manner and condition, as to safety, as commission may determine. Commission may require the officers of the railroad company and of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as commission may deem proper. Said commission shall determine at such hearing
2583 the repairs, renewals or strengthening of parts, or if necessary, the manner of rebuilding such bridge, required, to make the same safe for the uses to which it is put. It shall determine who shall bear the expenses of such repairs, renewals, strengthening or rebuilding, or it may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by commission just and fair, and shall make its report as hereinafter provided. *Same, sec. 75.*

Commission shall make a report in writing of its decision in all matters named in the three preceding sections, file the same in its office and cause a copy of such decision to be sent by mail to each of the railroad corporations, or the municipal officers of the cities or towns, as the case may be, interested therein. Such decision shall be final and binding upon all parties named, unless an
2584 appeal therefrom shall be taken and entered in the next succeeding term of the supreme judicial court, to be held in the county where the crossing or bridge is located, after 30 days from the date of the report. *Same, sec. 76.*

If any appeal shall be taken as provided in the preceding section, the appellant shall within 30 days from the date of the filing of such decision, file in the office of commission, its reasons of appeal, and 14 days at least before the sitting of the appellate court, it shall cause a copy of such reasons, certified by the clerk of commission, to be served upon such other interested corporation or municipality. The presiding justice, at such term of
2585 court, shall make such order or decree thereon as law and justice may require. Exceptions may be taken to such order or decree. The final adjudication shall be recorded by the clerk of courts in the county where the crossing or bridge is located, and a copy of the same shall be certified by said clerk to commission for record in its office. Costs may be taxed and allowed to either party at the discretion of the court. *Same, sec. 77.*

MASSACHUSETTS Commission shall have the general supervision of all railroads and railways, and shall examine the same, and commission shall keep itself informed as to the conditions of

2596 railroads and railways and the manner in which they are operated with reference to the security and accommodation of the public, and as to the compliance of the several railroad corporations and street railway companies with their charters and the laws of the state. Commission may from time to time require railroad corporations and street railway companies to install and maintain at such places upon the railroad or street railway premises as it shall designate such block or other signals or devices as it shall approve for the purpose of safeguarding public travel. The supreme judicial court shall have jurisdiction in equity to enforce compliance with any order issued by commission under authority of this section. *Acts 1906, ch. 463, pt. i, sec. 6.*

2597 Railroad and street railway inspectors who are appointed under the provisions of section one, shall under the direction of commission, examine the roadbed, tracks, crossings, stations, rolling stock, machinery, equipments, appliances and grounds used in or in connection with the operation of railroads or street railways and if they are considered by an inspector not to be in compliance with the requirements of law, or to be in such condition as to endanger the safety of the public or of employes he shall so report in writing to commission, which, if it considers it necessary, shall give notice to the corporation or company, or to the persons who own or operate the railroad or street railway, of such failure to comply with the requirements of the law or of such defects, with such recommendation as it may consider necessary or proper. *Same, sec. 56.*

2598 Every railroad corporation and street railway company shall, upon request of commission, and at least once in two years, cause an examination of its bridges and of the approaches thereto to be made by a competent engineer, who shall report the result of his examination, his conclusions and recommendations to the corporation or company, and it shall forthwith transmit a copy of the report to commission. Before a street railway company builds a bridge, it shall first submit the plans thereof to commission for approval. Upon the completion of a new bridge, the railroad corporation or street railway company shall forthwith cause such examination and report to be made and transmitted to commission. The report shall furnish such information, in such detail and with such drawings or prints as may be requested in writing by commission. Said commission may make further examination of the bridge structure if necessary or expedient. The provisions of this section shall not exempt a corporation from

making other and more frequent examinations of its bridges and the approaches thereto. *Same, sec. 58.*

MICHIGAN

Whenever commission shall have reasonable grounds to believe, either on complaint or otherwise, that any of the equipment, cars, tracks, bridges or other structures of any common carrier of this state are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety or unreasonably endangering the employes of such carrier, it shall inspect and examine, or cause to be inspected, examined and tested by some competent person or persons, and for that purpose it may employ some other person possessing especial knowledge and skill in the construction of railroads and bridges, as an expert, and if, on such examination, in its opinion any such equipment, cars, tracks, bridges or other structures be dangerous or unfit for the transportation of passengers with reasonable safety, or unreasonably endanger the employes of such carrier, it shall give the superintendent or other executive officer of the corporation working or operating said defective, dangerous or unfit equipment, car, track or bridge or other structure, notice of the condition thereof, and of the repairs or changes necessary to place the same in a reasonably safe condition, and of the time within which such repairs or changes shall be made. It may also order and direct the rate of speed of passing trains or cars over such dangerous or defective track, 2559 bridge or other structure, until the said repairs shall be made. If any superintendent or other executive officer aforesaid, receiving such notice or order to direct the proper subordinate officers of said corporation to run the passenger trains or cars over such defective track, bridge, or other structure, at the speed so prescribed by commission, or if any engineer, conductor or other employe of such company shall knowingly disobey such order, every such superintendent, officer, conductor or employe shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 43 of this act. Commission may wholly prohibit the running of passenger trains or cars over such defective, dangerous or unfit track, bridge or other structure, or the use of such dangerous, unfit or defective equipment or car, if said company shall neglect or without reasonable cause fail to make such repairs within the time prescribed by commission; and such company, for each and every day that ensues thereafter, and until such changes or repairs are made, shall forfeit and pay to the state the sum of \$100. In case of the employ-

ment of an expert, as provided for in this section, commission shall issue a certificate, which shall set forth the amount of time said expert has been employed, and the pay he is to receive therefor, which certificate shall entitle the holder thereof to receive the amount mentioned therein in the same manner as other employes of the state are paid. *Pub. Acts 1909, no. 300, sec. 34.*

See also par. 212.

MISSISSIPPI Commission shall upon complaint by petition, or whenever it may have knowledge otherwise of any insecure bridge, trestle, tunnel, or roadbed, inspect the same, and, if necessary, procure the services of a competent engineer to examine the same; and, after giving notice to the railroad, may declare such bridge, trestle, tunnel, or roadbed unsafe, and make such recommendations to the railroad relative thereto as it may
2890 deem proper; and after such bridge, trestle, tunnel, or roadbed be declared to be, in the judgment of commission, unsafe, and the same be not made safe, and any accident occur arising out of such unsafe condition, then the finding of commission shall be prima facie evidence in any suit for damages against the railroad of culpable negligence, and will justify punitive damages. The cost of examination by a competent engineer shall be paid as the expenses of commission are paid, after the allowance of the same by commission. *Code 1906, sec. 4869.*

Commission, through its several members, shall inspect every railroad whenever it shall deem the same necessary, and it must inspect all the railroads once in each year, and the results must be entered upon the minutes of commission and embraced in its reports, and must embrace information as to the condition of
2891 the roadbed, bridges, trestles, rolling stock, and depots, with such other as commission may deem proper. Whenever commission shall find any roadbed, trestle, bridge, tunnel, switch, or any part of a railroad track, or any rolling stock in actual use, in an unsafe condition, it shall direct the railroad company to make the necessary repairs. *Same, sec. 4870.*

MISSOURI Identical with par. 2563. *Rev. Stats. 1909,*
2892 *sec. 3259.*

NEBRASKA Commission may examine into and inspect, from time to time, the condition of each railway, or common carrier, its equipment, and the manner of its conduct and management with regard to the public safety and convenience in the state; and if any part thereof is found in an unsafe and dangerous

condition commission shall immediately notify the railway company or common carrier whose duty it is to put the same in repair, which shall be done by it within a reasonable time after receiving such notice, and if any railway company or common carrier subject to the provisions of this act fails to perform this duty, commission may enjoin and prevent it from running trains over the same while in such unsafe and dangerous condition. *Cob-bey's Annot. Stats. 1909, sec. 10650(i).*

NEW YORK Commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used. *Laws 1910, ch. 481, sec. 75.*

NORTH CAROLINA Commission shall from time to time carefully examine into and inspect the condition of each railroad, its equipment and facilities, in regard to the public's safety and convenience; and if any are found by it to be unsafe, it shall at once notify and require the railroad company to put the same in repair. *Pell's Revisal 1908, sec. 1097(7).*

NORTH DAKOTA Every railroad, bridge corporation, or ferry company doing business in the state shall make semi-annual reports in each year to commission as to the safety of their bridges and ferries. Whenever, in the judgment of commission, it shall appear that any railroad, railroad corporation or common carrier fails in any respect or particular, to comply with the terms of its charter or the laws of the state, or whenever in its judgment any repairs are necessary upon its road, or any addition to its rolling stock, or any addition to or change of its stations or station houses, or any change in its rate or fares for transporting freight, property or passengers, or any change in the mode of operating its road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, said commission shall inform such railroad corporation of the improvements and changes which it adjudges to be proper, by a notice thereof in writing, to be served by leaving a copy thereof, certified by the commission's secretary, with any station agent, clerk, treasurer or any director of said

corporation, and a report of the proceedings shall be included in the annual report of commission to the governor. Nothing in this section shall be construed as relieving any railroad company or railroad corporation from its present responsibility or liability for damage to person or property. *Rev. Codes 1905, sec. 4367.*

See also par. 317.

OHIO

If, on complaint or otherwise, commission has reasonable grounds to believe that any of the tracks, bridges, or other structures of a railroad are in a condition which renders them dangerous or unfit for the transportation of passengers, it shall forthwith inspect and examine them, and, if of opinion that they are unfit for the transportation of passengers with safety, it shall immediately give to the superintendent, or other executive officer of the company operating such road, notice of the condition thereof, and of the repairs or reconstruction necessary to place them in a safe condition. Commission may prescribe the time within which such repairs or reconstruction must be made, and the rate of speed for trains passing over such dangerous or defective track, bridge or other structure, until the repairs or reconstruction required are made. If, of opinion that it is needful and proper, it may forbid the running of passenger trains over such defective track, bridge or other structure. *Code 1910, sec. 585.*

Whoever, being the superintendent or other executive officer of a company operating a railroad, receives from commission notice of a prescribed rate of speed for trains passing over a defective track, bridge or other structure, or forbidding the running of passenger trains over such defective track, bridge or other structure, neglects for two days after receiving such notice to direct the proper subordinate officer to run the passenger trains over such defective track, bridge or other structure, at a speed not greater than that so prescribed, or, if the running of a passenger train is so forbidden, to stop running passenger trains over it, or, an engineer, conductor or other employe who knowingly disobeys such order, shall be fined not exceeding \$500 or imprisoned in the county jail not exceeding one year, or both. *Same, sec. 586.*

If the company operating such road neglects or without good cause fails to make the repairs or reconstruction prescribed by commission within the time limited by it, for each day that such repairs or reconstruction is delayed beyond the time prescribed, such company shall forfeit and pay to the state the sum of \$100. *Same, sec. 587.*

OREGON

Commission shall from time to time, and as often as once each year, carefully examine and inspect the physical condition of each railroad in the state, its roadbed, stations, equipment, and the manner of its conduct and management with reference to the safety of the public and the employes of such railroad, and the convenience of the public, and shall report the result of its investigations to the railroad company, together with its recommendations thereon; provided, that this section shall not be construed as repealing any existing law on the subject. *Gen. Laws 1907, ch. 53, sec. 22.*

See also par. 1022.

RHODE ISLAND

If upon hearing and investigation commission shall find that the regulations, practices, acts, plant or equipment, appliances, or service of any public utility, or any condition suffered, permitted or maintained by any public utility, is unsafe, or improper, or that the public safety is endangered thereby, commission shall by order determine the proper regulations, practices, acts, plant or equipment, appliances or service thereafter to be in force and to be observed, maintained and used by such public utility, and may by order require any dangerous or unsafe condition to be removed or remedied. *Acts 1912, ch. 795, sec. 23.*

Whenever any highway bridge over which a street railway is operated shall become unsafe for public travel, the public utility operating such railway shall pay the whole expense of repairing, strengthening, or reconstructing such bridge, if such bridge would be safe for public travel if such railway were not operated over it; but if a reconstruction of such bridge or the construction of a new bridge is required for any other cause, or if such bridge would be unsafe for public travel if such railway were not operated over it, then so much of the expense of repairing, strengthening, constructing, or reconstructing such bridge as may be equitable shall be paid by the public utility operating such railway. In the event of any disagreement between such public utility and the town or city bound by law to maintain any such bridge, as to the necessity of any repair or reconstruction thereof, or as to the character of such repair or reconstruction, or as to the apportionment of the expense of such repair or reconstruction, commission, upon application of any party in interest, and after due hearing, shall, subject to the provisions of section 34, make such orders as it shall deem necessary, in the interest of public safety, for the repair, strengthening, or reconstruction of such bridge, and shall

determine in accordance with the principle herein stated the portion of the expense of such repair, strengthening, or reconstruction which shall be borne by such public utility. *Same, sec. 53.*

See also par. 1025.

SOUTH DAKOTA If any bridge, line, wire, facility or structure, shall be deemed unsafe by commission, it shall notify the common carrier immediately, and it shall be the duty of said common carrier to repair, or replace said bridge, line, wire, facility or structure, in such manner and of such material and within such time as commission may order. Whenever in the judgment of commission it shall appear that any common carrier fails, in any respect or particular, to comply with the terms of its charter or the laws of the state, or whenever in its judgment any repairs are necessary upon its road, or facilities, or any addition to its rolling stock, or any stations or any additions to or change of its stations or station houses or any change in its rates of fare transporting
2808 freight, passengers, express or messages, or any change in the mode of operating its line or lines or conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, commission shall inform such common carrier of the improvements and changes which it adjudges to be proper, by notice thereof in writing to be served by leaving, or mailing by registered letter, a copy thereof, certified by its secretary, to or with any station agent, clerk, treasurer, or any director of said common carrier and a report of the proceedings shall be included in the annual report of commission to the legislature. Nothing in this section shall be construed as relieving any common carrier from its present responsibility or liability for damage to person or property. *Sess. Laws 1911, ch. 207, sec. 2.¹*

VERMONT *See par. 405.*

VIRGINIA *See par. 409.*

WASHINGTON If upon investigation commission shall find that the equipment or appliances in connection therewith, or the apparatus, tracks, bridges or other structures of any common carrier are defective, and that the operation thereof is dangerous to the employees of such common carrier or to the public, it shall

¹ Commission is hereby vested with full jurisdiction to require any common carrier doing business in this state to install any facility necessary for the safety, convenience and accommodation of the public including telegraph lines and instruments and operators therefor, and telephone lines and instruments. *Sess. Laws 1911, ch. 207, sec. 51.*

immediately give notice to the superintendent or other officer of such common carrier of the repairs or reconstruction necessary to place the same in a safe condition, and may also prescribe the rate of speed for trains or cars passing over such dangerous or defective track, bridge or other structure until the repairs or reconstruction required are made, and may also prescribe the time within which the same shall be made. Or if, in its opinion, it is needful or proper, it may forbid the running of trains or cars over any defective track, bridge or structure until the same be repaired and replaced in a safe condition. *Laws 1911, ch. 117, sec. 65.*

There shall be no appeal from or action to review any order of commission made under the provisions of this section. *Same.*

Commission shall, as soon as practicable, after the taking effect of this act, designate the number, dimensions, location and manner of application of the appliance provided for herein, or such as may be prescribed by commission, and shall give notice of such designation to all railroad companies and street railroad companies by such means as commission may deem proper, and thereafter such number, dimensions, location and manner of application as designated by commission shall remain as the standards of equipment to be used on all cars and locomotives subject to the provisions of this act. Commission may add to, change or modify said standards of equipment at any time or provide different standards under different circumstances and conditions; provided, that commission may, upon full hearing, for good cause, extend the period within which any railroad or street railroad may comply with the provisions of this section with respect to the equipment of locomotives or cars actually in service at the date of the passage of this act. Commission is hereby given authority to fix the time within which such modification or change shall become effective or obligatory. After the time so fixed it shall be unlawful to use any car, motor, or locomotive which does not comply with the standards so prescribed by commission; provided, that when any car, motor or locomotive shall have been properly equipped as provided in this act, and such equipment shall have become defective or insecure while such car, motor or locomotive was being used by such railroad company upon its line of railroad, such car, motor or locomotive may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car, motor or locomotive can be repaired, without liability for the penalties imposed herein if such movement is necessary to

make such repairs, and such repairs cannot reasonably be made except at such repair point. Nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead of drawbars in revenue trains, or in association with other cars that are commercially used, unless such defective cars contain live stock or perishable freight. *Same, sec. 66.*

2407 It shall be unlawful for any railroad company or street railroad company to use or operate any car, motor, locomotive or train that is defective, or any car, motor, locomotive or train upon which any appliance, machinery or attachment thereto belonging is defective, or to knowingly operate its train over any defective track, bridge or other structure, excepting in cases of emergency and under proper precautions; provided, that this section shall not apply to boarding and outfit cars when moved as work trains, or to trains consisting wholly of logging trucks or of logging trucks and a passenger car or caboose at the rear end thereof, or of logging trucks, and not to exceed five freight cars at the rear end thereof. *Same.*

2408 It shall be the duty of the inspector of tracks, bridges, structures, and equipment, and such deputies as may be appointed, to inspect all equipment, and appliances connected therewith, and all apparatus, tracks, bridges and structures, depots and facilities and accommodations connected therewith, and facilities and accommodations furnished for the use of employes, and make such reports of his inspection to commission as may be required. He shall, on discovering any defective equipment or appliances connected therewith, rendering the use of such equipment dangerous, immediately report the same to the superintendent of the road on which it is found, and to the proper official at the nearest point where such defect is discovered, describing the defect. Such inspector may, on the discovery of any defect rendering the use of any car, motor or locomotive dangerous, condemn such car, motor or locomotive, and order the same out of service until repaired and put in good working order. He shall, on discovering any track, bridge or structure defective or unsafe in any particular, report such condition to commission, and, in addition thereto, report the same to the official in charge of the division of such railroad upon which such defect is found. In case any track, bridge or structure is found so defective as to be dangerous to the employes or public for a train or trains to be operated over the same, the inspector is hereby authorized to condemn such track, bridge or structure and notify commission and the office in charge

of the division of such railroad where such defect is found of his action concerning the same, reporting in detail the defect complained of, and the work or improvements necessary to repair such defect. He shall also report to commission the violation of any law governing, controlling or affecting the conduct of public service companies in this state. *Same, sec. 67.*

The inspector, or such deputies as may be appointed, shall have the right and privilege of riding on any locomotive, either on freight or passenger trains or on the caboose of any freight train, 2600 for the purpose of inspecting the track on any railroad in this state; provided, that the engineer or conductor in charge of any such locomotive or caboose may require such inspector to produce his authority under the seal of commission, showing that he is such inspector or deputy inspector. *Same.*

The inspector, or such deputy inspector or inspectors as may be appointed, shall, when required by commission, inspect any street railroad, gas plant, electrical plant, water system, telephone line or telegraph line, and upon discovering any defective or 2610 dangerous track, bridge, structure, equipment, apparatus, machinery, appliance, facility, instrumentality or building, rendering the use of the same dangerous to the public or to the employes of the company owning or operating the same, report the same to commission, and to the official in charge of such road, plant, system or line. *Same.*

WISCONSIN

If upon inspection and examination commission shall deem that public safety requires the installation, operation, and maintenance of some suitable protective appliance at any grade crossing of the track or tracks of another steam railroad or of any other electric or street railway surface road by the track or tracks of said railroad or extension or branch thereof, 2611 commission may, before granting said order, after notice and hearing as provided in section 1797-12, order the installation, operation, and maintenance of such suitable protective appliance and by whom to be installed, operated, and maintained, and shall fix the proportion of the expense of constructing, maintaining, and operating such protective appliance which shall be paid by the owners of said tracks, respectively. *Laws 1907, ch. 454, sec. 1797-57, as amended by Laws 1909, ch. 475.*

It shall be the duty of every railroad to adopt reasonably adequate safety measures and install, operate, and maintain reasonably adequate safety devices for the protection of life and property. If, after investigation, commission shall determine

that public safety requires the installation, operation, and maintenance of a block system or other safety device or measure by any railroad, commission may, after notice and hearing as provided in section 1797-12, order such railroad to install, operate, and maintain a block system, or other safety device or measure as may be necessary to render the operation of such railroad reasonably safe. *Laws 1911, ch. 297, sec. 1797-9a.*

When a complaint is lodged with commission by the common council of any city, the village board of any village, a member of a town board, or a supervisor of highways, or by five or more freeholders and taxpayers in any town, or five or more freeholders of the county in which such bridge is located, and who are users of such bridge or railway, to the effect that a bridge erected over a stream intersecting a public highway or highways upon which a railway is constructed and operated, is unsafe and dangerous to travelers over such highway or highways or bridge or railroad, and that public safety requires the alteration, the repair or reconstruction of such bridge, or the substitution of another bridge therefor, commission shall give notice to the party or parties in interest, other than the petitioners, of the filing of such complaint, and to furnish a copy of the same to the party or parties in interest other than the petitioners, and to order a hearing thereon, in the manner provided for hearings in section 1797-12, and after such hearing the commission shall determine what alteration or repair or reconstruction of such bridge, and the approaches thereto, shall be made, or if it shall determine that public safety requires the substitution of a new bridge, it shall determine the character, manner of construction and location of such bridge and the approaches thereto. Commission shall fix the proportion of the cost and expense of such alteration, repair, reconstruction or substitution of a new bridge, including the damage to any person whose land is taken, and the special damage which the owner of any land adjoining the approaches to said bridge shall sustain by reason of such alteration, repair, reconstruction or substitution of a new bridge, to be paid by the railroad company and the city, village or town in interest. Commission may, in the absence of any petition therefor, when in its opinion public safety requires the alteration, repair or reconstruction of any such bridge or the substitution of another bridge therefor, after notice and hearing, as provided in section 1797-12, proceed in like manner as upon a complaint duly filed. *Laws 1911, ch. 590, sec. 1797-12k.*

C. DUTY OF UTILITIES TO REPORT OR GIVE NOTICE OF ACCIDENTS, AND AUTHORITY OF COMMISSION TO INVESTIGATE THE SAME AND MAKE RECOMMENDATIONS WITH RESPECT THERETO.

UNITED STATES It shall be the duty of the general manager, superintendent, or other proper officer of every common carrier, engaged in interstate or foreign commerce¹ by railroad to make to commission, at its office in Washington, District of Columbia, a monthly report, under oath, of all collisions, derailments, or other accidents resulting in injury to persons, equipment, or roadbed
2614 arising from the operation of such railroad under such rules and regulations as may be prescribed by commission, which report shall state the nature and causes thereof and the circumstances connected therewith; provided that hereafter all said carriers shall be relieved from the duty of reporting accidents in their annual financial and operating reports made to commission.
Accident Report Act 1910, sec. 1.

Any common carrier failing to make such report within 30 days after the end of any month shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent
2615 jurisdiction shall be punished by a fine of not more than \$100 for each and every offense and for every day during which it shall fail to make such report after the time herein specified for making the same. *Same, sec. 2.*

Commission may investigate all collisions, derailments, or other accidents resulting in serious injury to person or to the property of a railroad occurring on the line of any common carrier engaged in interstate or foreign commerce by railroad. Commission or any impartial investigator thereunto authorized by commission, may investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose may subpoena witnesses, administer oaths, take testimony, and require the production of books, papers, orders, memoranda, exhibits, and other evidence,
2616 and shall be provided by said carriers with all reasonable facilities; provided, that when such accident is investigated by a com-

¹ The term "interstate commerce" as used in this act, shall include transportation from any state or territory or the District of Columbia to any other state or territory or the District of Columbia, and the term "foreign commerce," as used in this act, shall include transportation from any state or territory or the District of Columbia to any foreign country and from any foreign country to any state or territory or the District of Columbia. *Accident Report Act 1910, sec. 7.*

mission of the state in which it occurred, the interstate commerce commission shall, if convenient, make any investigation it may have previously determined upon, at the same time as, and in connection with, the state commission investigation. Said commission shall, when it deems it to the public interest, make reports of such investigations, stating the cause of accident, together with such recommendations as it deems proper. Such reports shall be made public in such manner as commission deems proper.

Same, sec. 3.

Neither said report nor any report of said investigation nor any part thereof shall be admitted as evidence or used for any
2617 purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation. *Same, sec. 4.*

Commission may prescribe for such common carriers a
2618 method and form for making the reports hereinbefore provided.

Same, sec. 5.

ALABAMA

Every person, corporation, company or association operating a railroad shall give notice to commission of every accident happening on any portion of its line in this state, which is attended with death or maiming or other serious injury to the person of any one within five days thereafter, giving facts
2619 and circumstances of such accident, which any one or more of the commissioners may investigate, and the result of such injury, with such details as they may deem necessary shall be entered upon the record of the proceedings of commission. *Code 1907, sec. 5666.*

ARIZONA, CALIFORNIA

Commission shall investigate the cause of all accidents occurring within this state upon the property of any public service corporation¹ or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to persons or property and requiring, in the judgment of commission, investigation by it, and may make such order or recommendation with respect thereto as in its judgment may seem just and reasonable; provided, that neither the order
2620 or recommendation of commission nor any accident report filed with commission shall be admitted as evidence in any action for damage based on or arising out of the loss of life, or injury to person or property, in this section referred to. Every public service corporation¹ is hereby required to file with commission, under such rules and regulations as commission may prescribe, a report

¹ "Public utility," in California.

of each accident so occurring of such kinds or classes as commission may from time to time designate. *Ariz.—Sess. Laws 1912, ch. 90, sec. 44; Cal.—Stats. 1911, 1st. ex.sess., ch. 14, sec. 44.*

COLORADO

Every common carrier shall, whenever an accident attended by bodily injury or loss of human life occurs in this
2621 state on its line of road or on its ground or in its yards, give immediate notice thereof to commission. *Laws 1910, sp. sess., ch. 5, sec. 26.*

In the event of any such accident, commission, if it shall deem the public interest to require it, shall cause a suitable investigation to be made forthwith, and shall give reasonable notice thereof to the person and common carriers primarily interested.
2622
Same.

The expense of such investigation shall be certified by a majority of commission and shall be audited and paid by the state in the same manner as other expenses are audited and paid.
2623
Same.

Commission shall be empowered to make and enforce such
2624 rules as, in their judgment, will tend to prevent accidents in the operation of the railroads of this state. *Same.*

CONNECTICUT

Every railroad company shall, within 24 hours after the occurrence of any accident attended with personal injury, give notice of the same to commission in writing, who, upon receiving such notice or upon public rumor of such accident:
2625 may repair, or dispatch one of their number, to the scene of said accident, and without charge, furnish any person injured, or the friends of any person killed, any information they may have acquired in relation to such accident, and the names of the persons from whom the same was obtained or by whom the same may be proved. *Gen. Stats. 1902, sec. 3800.*

Every public service company shall, in the event of any accident, attended with personal injury or involving public safety, which was or may have been connected with or due to the operation of its plant or equipment, or caused by contact with its wires, notify commission thereof, by telephone or otherwise, as soon as
2626 may be reasonably possible after the occurrence of such accident. If said notice be given otherwise than in writing it shall be confirmed in writing within five days after the occurrence of such accident. Any company failing to comply with the provisions of this section shall be fined not more than \$500 for each offense. *Pub. Acts 1911, ch. 128, sec. 17.*

Commission shall examine into the causes of, and the circumstances connected with, all fatal accidents occurring in the operation of the plant or equipment of any public service company, and such other accidents, whether resulting in personal injury or not, as in its judgment, shall require investigation. Commission shall make a record of the causes, facts, and circumstances of each accident, within one month thereafter, and as a part of said record shall suggest means, if possible, whereby similar accidents may be avoided in the future. Such record shall be open to public inspection at the office of commission and a copy thereof shall be mailed to the company affected thereby. *Same, sec. 18.*

INDIANA

Commission shall call together in convention, at least once in every year, the division superintendents and such other operating and dispatching officers and employes of the steam railroads of this state, as commission may deem best, and shall place before said convention the reports filed with commission with reference to railroad accidents that have taken place during the year, together with such findings and conclusions thereon as commission shall have made, and said convention shall thoroughly investigate said reports, findings and conclusions and discuss the same with a view to taking such steps by commission, by such railroad companies and by their officers and employes as may be necessary or expedient to prevent such accidents. *Burns' Annot. Stats. 1908, as amended, sec. 5300.*

Every railroad company shall report to commission by telegraph or telephone as soon as possible after it has occurred, every accident and the general cause thereof, involving loss of life, or serious injury to passenger or employe, and within 20 days after such accident the company shall make a full report of the cause thereof to commission and commission shall investigate in such manner and by such persons, as it may deem best, the causes of any accident on any railroad involving loss of life, and every corporation at all times, shall furnish to commission, its appointees, or its inspectors any information relative to such accidents. Such reports and information shall not be used in the trial of any suits for damages arising out of said accidents, and commission shall not give publicity to such information if in its judgment the public interests do not require it. After such investigation, commission shall make a report to the railroad company of its conclusion and recommendations regarding such accidents and the causes thereof, and the proper steps to be taken by the railroad company to prevent like accidents, and unless the railroad com-

pany shall in a reasonable time comply with and carry out said recommendations, commission shall make the same public, if it shall deem best so to do, by publishing the same in any newspaper or newspapers in the state, or in the locality where the accident took place. *Acts 1911, ch. 76, sec. 1(a).*

IOWA Upon the occurrence of any serious accident upon any railroad within this state, which shall result in personal injury, or loss of life, the corporation operating the road upon which the accident occurred shall give immediate notice thereof to commission whose duty it shall be, if it deem it necessary, to
2630 investigate the same, and promptly report to the governor the extent of personal injuries, or loss of life, and whether the same was the result of mismanagement or neglect of the corporation on whose line the injury or loss of life occurred. Provided, that such report shall not be evidence or referred to in any case in any court. *Code 1897, sec. 2120k.*

KANSAS Every common carrier and every public utility shall, whenever an accident attended with loss of human life or serious personal injury occurs upon its premises within this state, give immediate notice thereof by telegraph to commission. In the event of any such accident, commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith, in connection with the labor commission, as now provided
2631 by law, which investigation shall be held in the locality of the accident, unless for greater convenience of those concerned it shall order such investigation to be held at some other place. Said investigation may be adjourned from place to place as may be found necessary and convenient. Commission shall seasonably notify an officer or agent of the public utility or common carrier of the time and place of the investigation. *Laws 1911, ch. 238, sec. 32.*

KENTUCKY Notice of every accident which may occur and be attended with loss of life shall be given within five days thereafter by the company operating the road on which the accident
2632 occurred to commission, and such company shall furnish commission all information requested by it concerning the cause of the accident. *Carroll's Stats. 1909, sec. 777.*

MAINE Whenever a serious accident occurs within the state to any passenger or freight train on any railroad, whether any person be fatally injured or otherwise, notice thereof shall be

given immediately by telegraph, if practicable, otherwise in writing, by the officers of the company operating the railroad on which the accident occurred, to commission. *Rev. Stats. 1903, ch. 52, sec. 66.*

In the event of any such accident, commission or the chairman thereof, shall, if they or he deem the public interests require it, cause an investigation to be made forthwith by commission, which investigation shall be held in the locality of the accident, unless, for reasons touching the convenience of all concerned, commission shall order it to be commenced at some other place; but in either case, the investigation may be adjourned to some other suitable and convenient place. Commission or the chairman thereof, shall seasonably notify the officers of the company, and also, if the accident shall have resulted fatally to one or more persons, the county attorney of the county where the accident occurred, of the time and place of the investigation. Commission
2634 may issue subpoenas for witnesses, and the testimony of each witness shall be taken before a sworn stenographer and written out in full and signed by the witness either at the time of the investigation, or as soon thereafter as practicable. Prefixed to his signature shall be a statement that the deposition has been carefully read by the witness, or carefully read to him, before signing. Immediately after the investigation commission shall make a special report, stating what it finds to be the cause of the accident, transmit copies thereof to such county attorney, and the railroad corporation concerned, and publish the same in its annual report. The taxable costs of the investigation shall be made up and certified to the governor and council by the board, and the same shall be paid by the state. Witnesses in all such cases shall be allowed the same fees as in the supreme judicial court. *Same, sec. 67.*

MARYLAND

Commission shall investigate the cause of all accidents on any railroad or street railroad which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier is hereby required to give notice to commission of every accident happening
2635 upon any line of railroad or street railroad, owned, operated, controlled or leased by it, within 30 days after the happening of every such accident, or in such manner as commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier giving such notice in any suit or action for damages growing out of any matter mentioned in said notice. *Laws 1910, ch. 180, sec. 22.*

MASSACHUSETTS An inquest shall be held in all cases of death by accident upon a railroad, and the court or justice holding such inquest or an inquest in case of death by accident upon a street
2636 railway shall give seasonable notice of the time and place thereof to commission. The attorney general or the district attorney may direct an inquest to be held in the case of death by any casualty. *Rev. Laws 1902, ch. 24, sec. 11.*

If a magistrate has reason to believe that an inquest to be held by him relates to the death by accident of a passenger or employee upon a railroad or of a traveler upon a public or private way at a railroad crossing, or to a death by accident connected with the operation of a street railway, he shall cause a verbatim report of the evidence to be made and sworn to by the person making it, and the report and the bill for services, after examination and
2637 approval in writing by such magistrate, shall be forwarded forthwith to commission. Such bill when approved by commission shall be forwarded to the auditor of accounts and be paid by the commonwealth, assessed on the several corporations owning or operating the railroad or street railway on which the accident occurred and shall be collected in the manner provided in section ten of chapter 111. The magistrate may, in his discretion, refuse fees to witnesses in the employ of the company upon whose railroad the accident occurred. *Same, sec. 14.*

Companies, persons and municipalities engaged in the manufacture and sale of gas or electricity for light or fuel shall, within 24 hours, report, in writing, to commission every accident caused by the gas or electricity manufactured or supplied by them, whereby an employee or other person is injured, killed or rendered insensible, stating the time, place and circumstances of
2638 the accident and such other facts relative thereto as commission may require. The chief of police of the city or town, and the medical examiner of the district, in which such accident occurs shall, in writing, report the same to commission. The chief of police shall so report within 24 hours, and the medical examiner within seven days, after he has notice thereof. The members of commission shall personally investigate all cases which require investigation. *Rev. Laws 1902, ch. 121, sec. 39.*

Commission shall investigate the causes of any accident on
2639 a railroad or railway which results in loss of life; and of other accidents which, in its judgment, require investigation. *Acts 1906, ch. 463, pt. i, sec. 11.*

An employee may make complaint in writing to commission

2640 of a defect in the ways, works, machinery or appliances of a railroad or railway, and the name of the complainant shall not be divulged. *Same, sec. 12.*

An inspector shall, under the direction of commission, investigate as promptly as may be any accident upon a railroad or street railway, or resulting from the operation thereof, which causes the death or imperils the life of a passenger, employe or 2641 other person, and shall report thereon to commission. He shall attend the inquest held in the case of any such death by accident, and may cause any person who has knowledge of the facts or circumstances connected with such death to be summoned as a witness to testify at the inquest. *Same, sec. 57.*

Every railroad corporation and street railway company shall give immediate notice of an accident on its railroad or railway, which results in a loss of life, to the medical examiner of the county who resides nearest to the place of accident, and shall also, 2642 within 24 hours, give notice to commission of any such accident or of any accident of the description of accidents of which commission may require notice to be given. For each omission to give such notice, the corporation or company shall forfeit not more than \$100. *Same, sec. 62.*

MICHIGAN

Every common carrier shall, whenever an accident occurs within this state upon its line or road or on its depot grounds or yards, give such notice thereof and make such report thereof to commission as the regulations of commission shall require. In the event of any accident commission, if it deem the public interests require it, shall cause an investigation to be made forthwith, which investigation shall be held within the locality of the accident, unless for greater convenience of those concerned it 2643 shall order the investigation to be held at some other place, and said investigation may be adjourned from place to place, as may be found necessary and convenient. Commission shall seasonably notify an officer of the company of the time and place of the investigation. The cost of such investigation shall be certified by the chairman of commission, and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid and record or file of said proceedings and evidence shall be kept by commission. *Pub. Acts 1909, no. 300, sec. 33.*

MINNESOTA

It shall be the duty of every railroad company operating a line of railroad in this state to report all accidents, wrecks or casualties occurring in this state to commission. This

is intended to include all accidents, wrecks or casualties occurring in the operation of trains or engines on said line or lines of railway within this state, and all other accidents or casualties of whatever nature as may be required under rules adopted by commission. Any reports to commission herein required shall not be for public inspection. All accidents or wrecks occurring in the operation of trains or engines involving loss of life or personal injury, shall be immediately reported to commission by telegraph or telephone message, and the company shall forthwith send a written report in detail giving full particulars available in such form as commission may require. All other accidents, including accidents resulting in personal injury or death, other than train accidents, shall be reported to commission on the first day of each month, covering the preceding month. *Laws 1905, ch. 122, sec. 1, as amended by Laws 1907, ch. 290.*

Whenever any report is made to commission involving a wreck, accident or casualty, and commission deems it necessary, it shall forthwith examine into the causes and circumstances of the same, and it shall thereupon be the duty of commission to order such railroad company to comply with any reasonable requirement prescribed by commission, calculated to prevent the recurrence of any such wreck, accident or casualty, and it shall be the duty of commission to report to the legislature biennially a summarized statement of all wrecks, accidents or casualties reported, together with a recommendation of such additional legislation as it deems proper for the greater protection of passengers and employes of railroad companies. *Same, sec. 2, as amended by Laws 1907, ch. 290.*

Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$1,000 or imprisonment in the county jail for not less than 30 days nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court. *Same, sec. 3.*

MISSISSIPPI

It is the duty of the conductor and engineer, or one of them, of any railroad train to which an accident has happened, attended with delay or serious personal injury, to immediately telegraph the same to the clerk of commission, at the capitol, or if there be not a telegraph office where such accident occurs, as soon thereafter as they can reach such office. And it shall be the duty of the superintendent of every railroad whose train has suffered any such accident, within five days thereafter, to report in

writing to commission the full particulars thereof, giving the names of the persons killed or injured, if known, and amount and character of property destroyed together with the cause of the accident. It is the duty of the railroad to require such duties to be performed; and if any railroad whose train has suffered any such accident, shall fail to cause its conductor, engineer, and superintendent to perform such duties, it shall forfeit the sum of \$100 to be recovered by any individual. *Code 1906, sec. 4861.*

One or more of the commissioners shall visit promptly the scene of every accident to a railroad train accompanied by death or serious bodily injury to a human being, and inquire into the
2648 facts and circumstances, and make a proper report thereof, to be recorded in the minutes and embraced in the annual report, with proper reference to the report of the superintendent. *Same, sec. 4862.*

MONTANA Commission or some members thereof, to be deputed by it, shall investigate and make inquiry into every accident occurring in the operation of any railroad in this state,
2649 resulting in death or injury to any person, of such gravity as to require the attention of a physician or surgeon, or in the destruction of property greater in value than \$2000. The testimony taken on any such hearing shall be transcribed and filed in the office of commission. *Rev. Codes 1907, sec. 4379.*

It is hereby made the duty of every railroad company operating any line of railroad within this state promptly upon the occurrence or in connection with the operation of its line within the
2650 state, of any accident such as is mentioned in the next preceding section, to report the same to commission, in which report shall be stated the time and place of the accident, the names of the persons killed or injured, and the value of any property destroyed. *Same, sec. 4380.*

NEVADA Every railroad shall, whenever an accident attendant with loss of human life occurs within this state, upon its line of road or on its depot grounds or yards, give immediate notice thereof to commission. In the event of any such accident, commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident, unless, for greater convenience of those concerned, it shall order such investigation to be
2651 held at some other place, and said investigation may be adjourned from place to place as may be found necessary and convenient.

Commission shall seasonably notify an officer or station agent of the company of the time and place of the investigation. The cost of such investigation shall be certified by the chairman of commission, and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid and a record or file of said proceedings and evidence shall be kept by commission. *Stats. 1907, ch. 44, sec. 30.*

Every public utility shall, whenever an accident occurs in the conduct of its operation, causing death or personal injuries, 2652 give immediate notice thereof, to commission. If in its judgment the public interest requires it, commission shall cause an investigation to be made forthwith, at such place and in such manner as commission shall deem it best. *Stats. 1911, ch. 162, sec. 27.*

NEW HAMPSHIRE Commission shall investigate the causes of all accidents happening upon the railroads of the state resulting in the loss of life and of all other accidents so happening which in the opinion of commission ought to be investigated. Any such investigation 2653 may be made by the full commission or by a single commissioner, as commission may determine. If such investigation is made by a single commissioner, said commissioner for the purposes of the particular investigation shall have and exercise all the powers of the full commission. *Laws 1911, ch. 164, sec. 15.*

NEW JERSEY Commission may after hearing, upon notice, by order in writing, require every public utility to give such notice to commission as commission may by rule require of any and all accidents which may occur within this state upon the property 2654 of any public utility or directly or indirectly arising from or connected with its maintenance or operation, and to investigate any such accident and to make such order or recommendation with respect thereto as in its judgment may be just and reasonable. *Laws 1911, ch. 195, sec. 17(g).*

NEW YORK Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to commission of 2655 every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as commission may direct. Such notice shall not be ad-

mitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice. *Laws 1910, ch. 480, sec. 47.*

NORTH CAROLINA Commission may investigate the causes of any accident on a railroad or steamboat which it may deem to require
2656 investigation, and any evidence taken upon such investigation shall be reduced to writing, filed in the office of commission, and be subject to public inspection. *Pell's Revisal 1908, sec. 1065.*

NORTH DAKOTA It shall be the duty of every railroad company operating a line of railway in this state to report to commission all accidents, wrecks, or casualties occurring in the operation of
2657 trains on said line or lines of railway within this state, coming within the knowledge of the company, wherein any person is either killed or injured, within reasonable time, not exceeding 60 days, in such form as commission may require. *Laws 1907, ch. 205, sec. 1.*

Whenever any such report is made to commission it shall forthwith examine into the causes and circumstances of such wreck, accident or casualty, and it shall thereupon be the duty of commission to order such railroad company to comply with any reasonable requirements prescribed by commission calcu-
2658 lated to prevent the recurrence of any such wreck, accident or casualty, and it shall be the duty of commission to report to the legislature biennially a summarized statement of all wrecks, accidents or casualties that have come to its knowledge by reason of this act, together with a recommendation of such additional legislation as it deem proper for the greater protection of passengers and employes of such railroads. *Same, sec. 2.*

Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a
2659 fine of not less than \$500 nor more than \$2,000 or imprisonment in the county jail for not less than 30 days nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court. *Same, sec. 3.*

OHIO Whenever an accident attended with loss of human life occurs within this state upon the line of any railroad
2660 or on the depot grounds or yards thereof, such railroad shall give immediate notice thereof to commission. *Code 1910, sec. 573.*

In case of such accident, commission, if it deems the public interest requires it, shall cause an investigation to be made forth-

with which shall be held in the locality of the accident, unless, for greater convenience of those concerned, it shall order it held at
2661 some other place. Such investigation may be adjourned from place to place as it may be found necessary and convenient. Commission shall give reasonable notice to an officer or station agent of the company of the time and place of the investigation.
Same, sec. 574.

The cost of such investigation shall be certified by the chair-
2662 man of commission, and audited and paid by the state as other expenses. A record or file of the proceedings and evidence shall be kept by commission. *Same, sec. 575.*

OREGON

Every railroad shall, whenever an accident attended with loss of human life or limb, or with serious injury to person or property, occurs within this state upon its line of road or on its depot grounds or yards, give immediate notice thereof to commission, stating the particulars thereof; provided, that neither said report nor any part thereof shall be used as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report. In the event of any such accident
2663 commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident, unless, for greater convenience of those concerned, it shall order such investigation to be held at some other place, and said investigation may be adjourned from place to place as may be found necessary and convenient. Commission shall seasonably notify an officer or station agent of the company of the time and place of the investigation. The cost of such investigation shall be certified by commission and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid. *Gen. Laws 1907, ch. 53, sec. 56.*

Every public utility shall, whenever an accident attended with loss of human life occurs within this state upon its premises, or directly or indirectly arises from or connected with its maintenance or operation, give immediate notice thereof to commission. In the event of any such accident commission, if it deem the public interest require it, shall cause an investigation to be
2664 made forthwith, which investigation shall be held in the locality of the accident, unless for greater convenience of those concerned it shall order such investigation to be held at some other place; and said investigation may be adjourned from place to place as

may be found necessary and convenient. Commission shall seasonably notify the public utility of the time and place of the investigation. *Gen. Laws 1911, ch. 279, sec. 73.*

PENNSYLVANIA Commission shall investigate the cause of any accident on the lines or property of any common carrier, resulting in loss of life or injury to persons, within 30 days of the happening of said accident, when, in their judgment, said accident shall require investigation; and shall advise said common carrier of the result of said investigation, within 60 days from the happening of said accident, and shall include the result of said investigation in their reports. Before making any such examination or investigation, under this section, reasonable notice shall be given to the corporation, person or persons, conducting and managing such common carrier, of the time and place of commencing the same. The general superintendent or manager of every common carrier shall inform commission of any such accident immediately after its occurrence. *Laws 1907, no. 250, sec. 13.*

RHODE ISLAND Every public utility shall, whenever any accident attended with loss of human life, or serious injury occurs within this state, directly or indirectly arising from or connected with its maintenance or operation, give immediate notice thereof to commission. In the event of any such accident, commission, if it deem public interest requires it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident, unless for the greater convenience of those concerned, it shall order the investigation to be held at some other place; and said investigation may be adjourned from place to place as may be found necessary and convenient. Commission shall reasonably notify the public utility of the time and place of the investigation. The notice herein required to be given shall not be admitted as evidence or used for any purpose against such public utility giving such notice, in any suit, action or proceeding brought for damages growing out of any matter mentioned in said notice; nor shall such notice be admitted as evidence or be used for any purpose in any criminal proceeding brought against the public utility giving such notice, or against any of its officers, agents or employes, growing out of any matter mentioned in such notice. *Acts 1912, ch. 795, sec. 49.*

SOUTH CAROLINA Commission shall investigate the causes of any accident on a railroad resulting in loss of life, and of any accident

not so resulting, which in their judgment, shall require investigation. *Gen. Stats. 1902, sec. 2071.*

Every railroad corporation shall cause immediate notice of any accident which may occur on its road, attended with injury to any person, in such cases of accident attended with any injury to any person, as commission may by rules and regulations adopted by it require the giving of such notices, to be given to a physician most accessible to the place of accident and to commission by telegraph, telephone or such other means as may be the quickest under the circumstances, at the same time that notice is given
2668 the officials of the road on which the accident occurred, and shall furnish immediate transportation for commission over its line to the place of accident, free of expense to commission, and if commission use another railroad to reach the place of accident, the corporation on whose line the accident occurs shall pay the expenses of transportation thereon, and shall also give notice in like manner of any accident falling within any description of accidents of which commission may by general regulation require notice to be given. For each omission to give such notice the corporation shall forfeit a sum not exceeding \$500. *Same, sec. 2137.*

SOUTH DAKOTA It shall be the duty of every railroad company operating a line of railroad in this state to report all accidents, wrecks or casualties occurring in this state to commission. This is intended to include all accidents, wrecks or casualties occurring in the operation of trains or engines on said line or lines of railway within this state, and all other accidents or casualties of whatever nature as may be required under rules adopted by commission. Any reports to commission herein required shall not be
2669 for public inspection. All accidents or wrecks occurring in the operation of trains or engines involving loss of life or personal injury, shall be immediately reported to the secretary of commission by telegraph or telephone message, and the company shall forthwith send a written report in detail giving full particulars available in such form as commission may require. All other accidents, including accidents resulting in personal injury or death other than train accidents, shall be reported to commission on the first day of each month covering the preceding month.
Sess. Laws 1909, ch. 75, sec. 1.

Whenever any report is made to commission involving a wreck, accident or casualty, and commission deems it necessary, it shall forthwith examine into the causes and circumstances of
2670 the same, and it shall thereupon be the duty of commission to

order such railroad company to comply with any reasonable requirement prescribed by commission calculated to prevent the recurrence of any such wreck, accident or casualty. *Same, sec. 2.*

Every person or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall 2671 be punished by a fine of not less than \$100 nor more than \$1,000, or imprisonment in the county jail for not less than 30 days nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court. *Same, sec. 3.*

VERMONT

The general superintendent or manager of a railroad doing business in this state shall inform commission in writing of every accident upon his road, resulting in loss of life or 2672 injury to any person, and of every collision and derailment of trains on the same, immediately after its occurrence. If such accident results in loss of life or serious injury to the person of a passenger, such information shall be given by telegraph. *Pub. Stats. 1906, sec. 4608.*

Commission shall inquire into the cause of every accident on a railroad resulting in loss of life, and, in its judgment, into any accident, collision or derailment of trains not so resulting. If, in its judgment, a public investigation is necessary in the interests of public safety, it shall fix a time and place of holding the same and shall summon the person or corporation operating such railroad, the parties known to have been injured in the accident, and, if known, a representative or friend of a person killed thereby, to appear and give evidence regarding the cause of such accident. Commission shall also notify the state's attorney of the county in which the accident occurred, who shall investigate the cause of 2673 such accident, produce witnesses who can give evidence in regard to the same, and attend and represent the state at such hearing. All parties summoned, and other persons interested, may appear and be made parties thereto, may produce witnesses or other evidence, and be represented by counsel. The person or corporation operating the railroad shall produce, on notice from commission, all trainmen and other employes who can give pertinent evidence in regard to the cause of the accident, free of expense to the state. Commission shall make public its determination in regard to the cause of the accident so investigated, and cause a permanent record thereof to be made. *Same, sec. 4609.*

The superintendent or manager of any line or plant, subject

to supervision under this act, shall immediately after its occurrence notify commission in writing of any accident within this state upon such line or plant resulting in loss of life, or injury to any person which shall incapacitate him from engaging in his
2674 usual vocations. Commission shall inquire into the cause of every such accident, and if, in its judgment, a public investigation is necessary, it shall fix a time and place of holding the same, and thereupon proceed as provided in section 4609 of the Public Statutes relating to investigation of accidents upon railroads. *Laws 1908, no. 116, sec. 7.*

VIRGINIA Notice of every accident which occurs, attended with loss of life or injury to person, shall be given within
2675 five days thereafter by the company operating the railroad on which the accident occurred to commission, and such company shall furnish commission all information requested by it concerning the cause of the accident. *Pollard's Code 1904, sec. 1294d(52).*

Commission may investigate the cause of any accident on
2676 any transportation line which, in its judgment, shall require investigation. *Same, sec. 1313a(37).*

WASHINGTON Every public service company is hereby required to give immediate notice to commission of every accident resulting in death or injury to any person occurring on its lines, plant or system, in such manner as commission may prescribe. Commission may require reports to be made by any common carrier of all wrecks, collisions or derailments occurring on the line
2677 of any such common carrier. Such notice shall not be admitted as evidence or used for any purpose against such public service company giving such notice in any suit or action for damages growing out of any matter mentioned in such notice. *Laws 1911, ch. 117, sec. 63.*

Commission is hereby authorized and directed to investigate all accidents that may occur upon the lines of any common carrier resulting in loss of life, to any passenger or employe, and may investigate any and all accidents or wrecks occurring on the line of any such common carrier, or any accident resulting in death or
2678 injury to any person occurring in connection with the plant or system of any public service company. Notice of such investigation shall be given in all cases for a sufficient length of time to enable the public service company affected to participate in the hearing, and such notice may be given orally or in writing, in such manner as commission may prescribe. *Same.*

Such witnesses may be examined as commission may deem necessary and proper to thoroughly ascertain the cause of the accident or wreck and fix the responsibility therefor. Such examination and investigation may be conducted by the inspector or any
2679 deputy inspector, and such inspector or deputy inspector may administer oaths, issue subpoenas and compel the attendance of witnesses, and when such examination is conducted by the inspector or deputy inspector, he shall make a full and complete report thereof to commission. *Same.*

WISCONSIN It shall be the duty of every railroad company to report to commission all collisions, derailments, or other accidents resulting in injury to persons, equipment, or roadway arising from the operation of such railroad. Commission shall issue such rules concerning the reporting of accidents as may be re-
2680 quired, and may also, if it deems that public interests require, cause an investigation of any accident. The cost of such investigation shall be certified by the chairman of commission, and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid. *Laws 1905, ch. 362, sec. 1797-30 as amended by Laws 1911, ch. 472.*

Every public utility shall, whenever an accident attended with loss of human life occurs within this state upon its premises
2681 or directly or indirectly arising from or connected with its maintenance or operation, give immediate notice thereof to commission. *Laws 1907, ch. 499, sec. 1797m-101(1).*

In the event of any such accident commission, if it deem public interest require it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident, unless for greater convenience of those concerned it
2682 shall order such investigation to be held at some other place; and said investigation may be adjourned from place to place as may be found necessary and convenient. Commission shall seasonably notify the public utility of the time and place of the investigation. *Same, sec. 1797m-101(2).*

CHAPTER IX

Accounts

SCOPE NOTE

This chapter includes grants of power authorizing commissions to prescribe systems of accounts and to regulate accounting practices. It includes provisions giving commissions the right of access to, and inspection of, the books and records of utilities only insofar as these rights are granted strictly for the purpose of regulating accounts. For provisions incidentally involving questions of accounts, see ch. x, on reports. For provisions requiring utilities to keep accounts of the rates and charges imposed by them pending judicial review of orders of commissions, see ch. xv, on enforcement. For provisions authorizing commissions to inspect the books, records and memoranda of utilities for general purposes of regulation, see ch. ii, on general powers of commissions. For provisions authorizing commissions to order the production of books, records and memoranda, see ch. xiv, on commission procedure and practice. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

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A. GENERAL AUTHORITY OF COMMISSION TO REGULATE ACCOUNTS AND PRESCRIBE ACCOUNTING PRACTICES.

UNITED STATES Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, **2683** prescribe a period of time within which all common carriers shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. *Act to Regulate Commerce, sec. 20.*

Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers, including the accounts, records, and memoranda of the **2684** movement of traffic as well as the receipts and expenditures of moneys. *Same.*

Any person who shall wilfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall wilfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall wilfully neglect or fail to make full, true and correct entries in such accounts, records or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by commission, **2685** shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment: provided, that commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved. *Same.*

In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by commission, or to submit such accounts, records, and memoranda as are kept **2686** to the inspection of commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each

and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act. *Same.*

ALABAMA

Commission may, when it deems it advisable to do so, establish a uniform system of accounts to be used by common carriers, railroad and street railroad corporations and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the form of accounts, records and memoranda to be kept, including the accounts, records and memoranda of the movement of traffic, as well as
2087 the receipts and expenditures of moneys. The system of accounts established by commission and the forms of accounts, records and memoranda prescribed by it as provided above, shall conform as near as may be to those from time to time established and prescribed by the interstate commerce commission, but commission may vary said system and forms from time to time, in such manner, and require such additional accounts, records and memoranda to be kept, as it may deem expedient or necessary. *Acts 1907, sp. sess. no. 17, sec. 3.*

In case of the failure or refusal on the part of any such common carrier or railroad corporation to keep such accounts, records and memoranda as are prescribed in sections three and four of this act, or as have been or may be prescribed by commission, and in such manner as is prescribed, or to submit all such accounts, records, memoranda, books, documents and contracts as are kept, to the inspection and examination of commission, or any member thereof, or any of its authorized agents or examiners or em-
2088 ployes, or shall fail or refuse to furnish the information as required in said sections to be furnished, such common carrier or railroad corporation shall forfeit to the state the sum of \$100 for each such offense and for each and every day of the continuance of such offense; and the act of any director, officer, agent or other person acting for or employed by such carrier or railroad corporation, acting within the scope of his official duties, in such failure or refusal, shall be, and be deemed to be, the act of such common carrier or railroad corporation. *Same, sec. 5.*

See also par. 2754.

ARIZONA, CALIFORNIA

Commission may establish a system of accounts to be kept by public service corporations¹ or classify said public service corporations¹ and establish a system of accounts for

¹ "Public utility," in California.

each class, and prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such public
2683 service corporations,¹ including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records and memoranda which in the judgment of commission may be necessary to carry out any of the provisions of this act. *Ariz.—Sess. Laws 1912, ch. 90, sec. 48; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 48.*

The system of accounts, established by commission and the forms of accounts, records and memoranda prescribed by it shall not be inconsistent in the case of corporations subject to the provisions of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, with the systems and forms
2690 from time to time established for such corporations by the interstate commerce commission, but nothing herein contained shall affect the power of commission to prescribe forms of accounts, records and memoranda covering information in addition to that required by the interstate commerce commission. The commission may, after hearing had upon its own motion or upon complaint, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. *Same.*

Where commission has prescribed the forms of accounts, records or memoranda to be kept by any public service corporation for¹ any of its business, it shall thereafter be unlawful for such public service corporation¹ to keep any accounts, records or memo-
2691 randa for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States, excepting such accounts, records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by commission. *Same.*

See also par. 4517.

CONNECTICUT *See par. 2796.*

FLORIDA In so far as the forms and methods of accounting and of reports are prescribed under the authority of this act,
2692 for corporations² engaged in interstate commerce, they shall conform as near as may be to the forms and methods of accounting prescribed for such corporations by the interstate commerce commission. *Laws 1911, ch. 6187, sec. 4.*

¹ "Public utility," in California.

² Telegraph corporations.

GEORGIA

Commission may, whenever it deems advisable, prescribe, establish, and order a uniform system of accounts to be used by railroads and other corporations; the same to be as far as practicable in conformity with the system of accounts prescribed by the interstate commerce commission; examine all books, contracts, records, and documents of any person or corporation subject to its supervision, and compel the production thereof. *Code 1911, sec. 2663.*

IOWA

Commission may prescribe uniformity in methods of keeping accounts as near as may be and fix a time when such regulations shall take effect. *Code 1897, sec. 2143.*

KANSAS

Any person who shall wilfully make any false entry in the accounts, books of account, records or memoranda kept by any common carrier or any public utility governed by the provisions of this act, or who shall wilfully destroy, mutilate, alter or by any other means or device falsify the record of any such account, book of accounts, record or memorandum, or who shall wilfully neglect or fail to make full, true and correct entries of such account, book of accounts, record or memorandum of all facts and transactions appertaining to such common carriers or public utilities business, or who shall falsely make any statement required to be made to commission, shall be deemed guilty of a felony, and upon the conviction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment of not less than one year nor more than three years, or by both fine and imprisonment; provided, that commission may in its discretion issue orders specifying such operating, accounting or financial papers, records, books, blanks, tickets, stubs or documents, of carriers which may after a reasonable time be destroyed, and prescribing a length of time such books, papers, or documents shall be preserved; and provided further, that such orders shall be in harmony with those of the interstate commerce commission. *Laws 1911, ch. 238, sec. 37.*

MARYLAND

Commission may, whenever it deems advisable, establish, upon due and reasonable notice to all such corporations, system of accounts to be used by railroad and street railroad corporations, or other common carriers, or may classify the said corporations and other carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the form of accounts, records and memoranda to be kept

by common carriers, including the accounts, records and mem-
2696 oranda of the movement of traffic as well as the receipts and ex-
penditures of moneys. The system of accounts established by
commission and the form of accounts, records and memoranda
prescribed by it as provided shall conform, as nearly as possible,
to those from time to time established and prescribed by the
interstate commerce commission under the provisions of the act
of Congress entitled "An act to regulate commerce," approved
February 4, 1887, as amended by the act approved June 29,
1906, and amendments thereto. *Laws 1910, ch. 180, sec. 25.*

When commission has prescribed the forms of accounts,
records and memoranda to be kept by such corporations, it shall
2697 be unlawful for them to keep any other accounts, records, or
memoranda than those so prescribed, or those prescribed under
the authority of the United States. *Same.*

Commission may, in its discretion, prescribe uniform
methods of keeping accounts, records and books, to be observed
2698 by the persons, gas and electrical corporations engaged in the
manufacture, sale and distribution of gas and electricity for light,
heat or power. *Same, sec. 31 $\frac{3}{4}$.*

Commission may, in its discretion, prescribe and require
items, methods of keeping accounts, records and books to be
2699 furnished by the persons and corporations engaged in the fur-
nishing of facilities for the transmission of intelligence by elec-
tricity. *Same, sec. 39(3).*

See also par. 2759.

MASSACHUSETTS Corporations and companies which are en-
gaged in the manufacture and sale of gas or electricity for light
or heat shall have an office in the city or town in which their
works are located, and shall keep in said office all the books and
2700 papers which are required by law to be kept within the com-
monwealth, and also such books as may be required to show
their receipts, expenditures, indebtedness and financial condition;
and shall at all times, upon application, submit their books to
the inspection of gas and electric commission. *Rev. Laws 1902,*
ch. 121, sec. 28.¹

Corporations and companies which are engaged in the
manufacture and sale of gas or electricity for light or heat shall
keep their books and accounts in a form to be prescribed by gas
and electric commission and the accounts shall be closed annually
2701 on June 30 so that a balance sheet of that date can be taken there-

¹ See footnote 1, par. 276.

from. Manufacturing companies in which the manufacture of gas is a minor portion of their business shall be required to keep accounts of the expenses and income of their gas business only. *Same, sec. 29.*¹

Persons or corporations engaged in the manufacture or sale of gas or electric light shall keep such records of their work at their manufacturing station, and in respect to their distributing plant, as gas and electric commission may from time to time require. Said records shall be in such form as commission may prescribe. *Same, sec. 30.*

Every company engaged in the business of the transmission of intelligence by electricity within the commonwealth shall keep its books and accounts covering the business done within the commonwealth in a form approved by commission. *Acts 1906, ch. 433, sec. 11.*

Commission shall from time to time in each year examine the books and accounts of every corporation or company which operates a railroad or railway, and require them to be kept in a uniform manner and upon the system prescribed by commission. Statements of the doings and financial condition of the several corporations and companies shall be prepared and published at such times as commission shall consider expedient. *Acts 1906, ch. 463, pt. i, sec. 15.*

A railroad corporation or street railway company which refuses to submit its books to the examination of commission or unreasonably neglects to keep its accounts in the method prescribed by commission, shall forfeit not more than \$5,000 for every such refusal or neglect. *Same, sec. 18.*

A railroad corporation shall keep its books and accounts in the manner prescribed by commission and shall at all times submit its books to the inspection of commission or of any committee of the general court which may be authorized to inspect them. *Acts 1906, ch. 463, pt. ii, sec. 248.*

Every street railway company shall keep its books and accounts in a uniform manner, upon the system prescribed by commission. *Acts 1906, ch. 463, pt. iii, sec. 151.*

See also par. 209.

MICHIGAN Commission may in its discretion prescribe uniform methods of keeping accounts to be observed by all corporations engaged in such business of transmitting and supplying electricity. *Pub. Acts 1909, no. 106, sec. 6.*

¹ See footnote 1, par. 276.

Commission shall have the power and authority and it is hereby made its duty to prescribe the manner and the form of accounts, records and memoranda and of keeping of same; and it shall be the duty of all telephone companies within the state to keep accounts, books of accounts, records and memoranda in
2709 the manner and form prescribed by commission, and in no other manner and form: provided, however, that no such regulations shall be in duplication of or in addition to any regulations covering the same subject matter made by the government of the United States or any municipality of this state. *Pub. Acts 1911, no. 138, sec. 18.*

MINNESOTA Commission may prescribe a uniform system of accounts and the manner of keeping the same and may designate
2710 from time to time to what account any items shall be charged. *Rev. Laws 1905, sec. 1984.*

It shall be the duty of every railroad doing both intrastate and interstate freight business in this state, to keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling such intrastate business in Minnesota. Commission shall have power, and it is hereby made its duty to prescribe the form in which such accounts shall be kept, and it may require such accounts for each operating division of such railroad wholly or partly within this state. In addition to all other information on the subject, such accounts shall show the total cost of operating the through trains, and
2711 the total cost of operating the local or distributing trains, on each operating division wholly or partly within this state, during the fiscal year to be fixed by said commission, and also the total number of tons of revenue and non-revenue freight, and the number of said tons of each carried one mile on said through trains and on said local trains, respectively, and the number of said tons and ton miles of revenue and non-revenue freight carried on through or local trains, which are exclusively intrastate business. Said accounts shall also show the gross tons and ton miles made by through and local trains on said divisions. *Laws 1911, ch. 327, sec. 1.*

Said accounts shall also show the total revenue and non-revenue train and engine miles, and the total revenue and non-revenue car miles (said non-revenue car miles to be shown loaded and empty separately) produced by such railroad in the state on said operating divisions, and also the number of each of the above train, engine and car mileages produced in handling said through

2712 trains and in handling said local trains, also the total locomotive miles produced in switching on each division, and such further information relating to the income or cost of the intrastate business, as commission may require. Commission may also require such accounts to be kept with reference to the intrastate passenger business of such carrier, and the train, car and engine mileage incurred in the passenger business in this state as it shall deem necessary. *Same, sec. 2.*

NEBRASKA Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be
2713 kept by carriers, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of money. *Cobbey's Annot. Stats. 1909, sec. 10650(r).*

NEVADA Every public utility shall keep and render to commission, in manner and form prescribed by commission uniform and detailed accounts of all business transacted. *Stats. 1911, ch. 162, sec. 7.*

Every public utility engaged directly or indirectly in any other business than those mentioned in section three of this act, shall if required by commission, keep in like manner and form the
2715 accounts of all other such business, in which case all the provisions of this act shall apply with like force and effect to the books, accounts papers and records of such other business. *Same, sec. 7(a).*

No public utility shall keep any other books, accounts, papers or records of the business transacted than those prescribed or approved by commission. Each public utility shall have an
2716 office within this state, and shall keep in said office all such books, accounts, records or papers, none of which shall be removed at any time from the state except upon such conditions as may be prescribed by commission. *Same.*

NEW HAMPSHIRE Commission may, whenever it deems advisable, establish a system of accounts and records to be used by railroad corporations and by public utilities for their business within this state and may classify the said railroad corporations and public utilities and prescribe a system of accounts for each
2717 class, and may prescribe the manner in which said accounts shall be kept; provided, however, that railroad corporations and public utilities shall not be required to keep any system of accounts and records which would conflict with any requirements made of

them by the interstate commerce commission. *Laws 1911, ch. 164, sec. 4.*

NEW JERSEY

Commission may, in its discretion, require a uniform system of rendering accounts to commission by the railroad companies, and order reports made in accordance with such
2718 system; provided, that such uniform system and all forms of accounts which may be required by commission shall conform to the system and forms prescribed by the interstate commerce commission. *Laws 1909, ch. 189, sec. 4.*

Commission may, after hearing, upon notice, by order in writing, require every public utility to keep its books, records and accounts so as to afford an intelligent understanding of the conduct of its business and to that end to require every such public
2719 utility of the same class to adopt a uniform system of accounting. Such system shall conform, in so far as in the judgment of commission is practicable, to any system adopted or approved by the interstate commerce commission. *Laws 1911, ch. 195, sec. 17(d).*

NEW YORK

Each commission may, whenever it deems advisable, establish a system of accounts to be used by railroad and street railroad corporations or other common carriers or may classify the said corporations and other carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such corporations, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. Notice of alterations by com-
2720 mission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by commission at least six months before the same are to take effect. The system of accounts established by commission and the forms of accounts, records, and memoranda prescribed by it as provided above shall conform in the case of railroad corporations as nearly as may be to those from time to time established and prescribed by the interstate commerce commission under the provisions of the act of Congress entitled "An act to regulate commerce" approved February 4, 1887, and the acts amendatory thereof or supplementary thereto. *Laws 1910, ch. 480, sec. 52.*

Commission may, after hearing, prescribe by order the accounts in which particular outlays and receipts shall be entered,

charged or credited. Where commission has prescribed the forms
2721 of accounts, records and memoranda to be kept by such corporations it shall be unlawful for them to keep any other accounts, records or memoranda than those so prescribed, or those prescribed by or under authority of the United States. *Same.*

Each commission may, in its discretion, prescribe uniform methods of keeping accounts, records and books, to be observed by gas and electrical corporations and by municipalities engaged in the manufacture, sale and distribution of gas and electricity for light, heat or power. It may also in its discretion prescribe, by order, forms of accounts, records and memoranda to be kept
2722 by such persons, corporations and municipalities. Notice of alterations by commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporation shall be subject to examination by commission. *Same, sec. 66(4).*

Commission may establish a system of accounts to be used by telegraph and telephone corporations and are required to make annual reports to it or classify the said corporations, and prescribe a system of accounts for each class and may prescribe
2723 the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the form of records to be kept by such corporation. Notice of alterations by commission in the required method or form of keeping accounts shall be given to such corporations by commission at least six months before the same are to take effect. *Same, sec. 95(2).*

See also pars. 455, 2767, 2768.

OHIO Commission may establish a system of accounts to be kept by public utilities, or classify utilities and prescribe a system of accounts for each class and prescribe the manner in which such accounts shall be kept. Such system shall when practicable conform to the system prescribed by the tax
2724 commission of Ohio. It may also, in its discretion, prescribe the form of records to be kept by public utilities, and commission may require that no other records be kept except as may be required by the laws of the United States or as may hereafter be required by the laws of this state. *Laws 1911, no. 325, sec. 12.*

Commission may, if it shall determine that any expenditures or receipts have been improperly charged or credited, order
2725 the necessary changes in such accounts. *Same.*

OREGON

Commission may, in its discretion, prescribe a uniform system of rendering accounts of business transacted in Oregon by all railroads within the meaning of section 11 of this act. Commission may also prescribe the manner in which such
2726 accounts may be kept, and the time within which such railroads shall adopt such system; provided, that all forms of accounts which may be prescribed by commission shall conform as nearly as practicable to similar forms prescribed by federal authority.
Gen. Laws 1907, ch. 53, sec. 43.

Every public utility shall keep and render to commission in the manner and form prescribed by commission uniform accounts of all business transacted. All forms of accounts which may be prescribed by commission shall conform as nearly as practicable to similar forms prescribed by federal authority. Every public utility engaged directly or indirectly in any other business than
2727 roads or the production, transmission or furnishing of heat, light, water or power or the conveyance of telephone messages shall, if required by commission, keep and render separately to commission in like manner and form the accounts of all such other business, in which case all the provisions of this act shall apply with like force and effect to the books, accounts, papers and records of such other business. *Gen. Laws 1911, ch. 279, sec. 11.*

Commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form pre-
2728 scribed by commission and to comply with all directions of commission relating to such books, accounts, papers and records. No public utility shall keep any other books, accounts, papers or records of its public utility business transacted than those prescribed or approved by commission, except such as may be required by the laws of the United States. *Same, sec. 12.*

Each public utility shall have an office in one of the towns or cities in this state in which its property or some part thereof is located, and shall keep in said office all such books, accounts,
2729 papers and records as shall be required by commission to be kept within the state. No books, accounts, papers or records required by commission to be kept within the state shall be at any time removed from the state, except upon such conditions, as may be prescribed by commission. *Same, sec. 14.*

See also par. 2913.

SOUTH DAKOTA Commission may, in its discretion prescribe the forms of any and all accounts, records and memoranda to be kept by carriers, including the accounts, records, and memoranda of the movement of traffic, as well as receipts and expenditures of money. *Sess. Laws 1911, ch. 207, sec. 48.*

TEXAS Commission may prescribe a system of book-keeping to be observed by all the railroads, under the penalties prescribed in this article. *Sayles' Civ. Stats. 1897, art. 4571.*

VERMONT Commission on due notice and hearing may establish a uniform system of keeping railroad accounts and making and publishing returns of the condition of railroads so as to conform so far as practicable to a uniform system in common with the other New England states, New York and Canada. Railroad corporations shall adopt the system of accounts and manner of making returns established by commission and conform to the same so far as is consonant with the method of business and connections of such railroad and the returns shall be made under oath. The system now in use may be followed by the persons and corporations operating railroads until commission shall make changes in the direction of uniformity as aforesaid. *Pub. Stats. 1906, sec. 4613.*

WASHINGTON Commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by public service companies, including the accounts, records and memoranda of the movement of traffic, sales of its product, the receipts and expenditures of money. *Laws 1911, ch. 117, sec. 78.*

Commission may, in its discretion, prescribe the forms of any and all reports, accounts, records and memoranda to be furnished and kept by any public service company whose line or lines extend beyond the limits of this state, which are operated partly within and partly without the state, so that the same shall show any information required by commission concerning the traffic movement, receipts and expenditures appertaining to those parts of the line within the state. *Same.*

Commission may, in its discretion, for the purpose of enabling it the better to carry out the provisions of this act, prescribe the period of time within which all public service companies shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. *Same.*

WISCONSIN

Commission may in its discretion prescribe a uniform system of rendering accounts of business transacted in Wisconsin by all railroads within the meaning of section two (including subdivisions a and b) of chapter 362, laws of 1905. Commission may also prescribe the manner in which such accounts shall be kept, and the time within which such railroad shall adopt such system; provided that all forms of accounts which may be
2736 prescribed by commission shall conform as nearly as practicable to similar forms prescribed by federal authority. Any railroad within the meaning of section two (including subdivisions a and b) of chapter 362 of laws of 1905, failing to comply with the provisions of this act shall be liable to the penalty provided for in section 27 of chapter 362 of the laws of 1905. *Laws 1905, sp. sess., ch. 13, sec. 1797-18 (d).*

Every public utility shall keep and render to commission
2737 in the manner and form prescribed by commission uniform accounts of all business transacted. *Laws 1907, ch. 499, sec. 1797m-8(1).*

Every public utility engaged directly or indirectly in any other business than that of the production, transmission or furnishing of heat, light, water or power or the conveyance of telephone messages shall, if required by commission, keep and render
2738 separately to commission in like manner and form the accounts of all such other business, in which case all the provisions of this act shall apply with like force and effect to the books, accounts, papers and records of such other business. *Same, sec. 1797m-8 (2).*

Commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books, accounts, papers and
2739 records accurately and faithfully in the manner and form prescribed by commission and to comply with all directions of commission relating to such books, accounts, papers and records. *Same, sec. 1797m-9.*

No public utility shall keep any other books, accounts, papers
2740 or records of the business transacted than those prescribed or approved by commission. *Same, sec. 1797m-11.*

Each public utility shall have an office in one of the towns, villages, or cities in this state in which its property or some part thereof is located, and shall keep in said office all such books, ac-
2741 counts, papers and records as shall be required by commission to be kept within the state. No books, accounts, papers or records

required by commission to be kept within the state shall be at any time removed from the state, except upon such conditions as may be prescribed by commission. *Same, sec. 1797m-12.*

See also par. 2941.

B. DEPRECIATION ACCOUNTS.

ARIZONA, CALIFORNIA

Commission may, after hearing, require any or all public service corporations¹ to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as commission may prescribe. Commission may, from time to time ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public service corporation.¹ Each public service corporation¹ shall conform its depreciation
2742 accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditures and subsequent replacement as commission may prescribe. The income upon investments of moneys in such fund shall likewise be carried in such fund. *Ariz.—Sess. Laws 1912, ch. 90, sec. 49, Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 49.*

NEW JERSEY

Commission may, after hearing, upon notice, by order in writing, require every public utility to carry whenever in the judgment of commission it may reasonably be required, for the protection of stockholders, bondholders or creditors, a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as commission may prescribe. Commission shall from time to time ascertain and determine, and by order in writing after hearing fix proper and adequate rates of depreciation of the property of each public utility, in accordance with such regulations or classifications,
2743 which rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to the rates ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same

¹ "Public utility," in California.

in a depreciation fund. The income from investments of moneys in such fund shall likewise be carried in such fund. This fund shall not be extended otherwise than for depreciation, improvements, new constructions, extensions or additions to the property of such public utility. *Laws 1911, ch. 195, sec. 17 (f).*

OHIO

Every public utility shall carry a proper and adequate depreciation or deferred maintenance account, whenever commission after investigation shall determine that a depreciation account can be reasonably required. Commission shall ascertain, determine and prescribe what are proper and adequate charges for depreciation of the several classes of property for each public utility. The charge for depreciation shall be such as will provide the amount required over and above the cost and expense of maintenance to keep the property of the public utility in a state of efficiency corresponding to the progress of the art or industry. Commission may prescribe such changes in such charges for depreciation from time to time as it may find necessary. *Laws 1911, no. 325, sec. 51.*

The moneys for depreciation charges thus provided for shall be set aside out of the earnings and carried as a depreciation fund. The moneys in such fund may be expended in new construction, extensions or additions to the property of the public utility, or invested, and if invested, the income from the investment shall also be carried in the depreciation fund. Such fund and the proceeds thereof, may be used for the purpose of renewing, restoring, replacing or substituting depreciated property in order to keep the plant in a state of efficiency. Such fund and the proceeds or income therefrom shall be used for no purpose other than as provided in this section, except upon the approval of commission. *Same, sec. 52.*

OREGON, WISCONSIN

Every public utility shall carry a proper and adequate depreciation account whenever commission after investigation shall determine that such depreciation account can be reasonably required. Commission shall ascertain and determine what are the proper and adequate rates of depreciation of the several classes of property of each public utility. The rates shall be such as will provide the amounts required over and above the expense of maintenance, to keep such property in a state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to such

rates so ascertained and determined by commission. The commission may make changes in such rates of depreciation from time to time as it may find to be necessary. *Ore.—Gen. Laws 1911, ch. 279, sec. 17; Wis.—Laws 1907, ch. 499, sec. 1797m-15(1).*

Commission shall also prescribe rules, regulations, and forms of accounts regarding such depreciation which the public utility is required to carry into effect. *Ore.—Same; Wis.—Same, sec. 1797m-15(2).*

Commission shall provide for such depreciation in fixing the rates, tolls and charges to be paid by the public. *Ore.—Same; Wis.—Same, sec. 1797m-15(3).*

All moneys thus provided for shall be set aside out of the earnings and carried in a depreciation fund. The moneys in this fund may be expended in replacements,¹ new constructions, extensions or additions to the property of such public utility, or invested, and if invested the income from the investments shall also be carried in the depreciation fund. This fund and the proceeds thereof shall be used for no other purpose than as provided in this section and for depreciation. *Ore.—Same; Wis.—Same, sec. 1797m-15(4).*

C. CONSTRUCTION ACCOUNTS.

OHIO Commission shall keep informed of all new construction, extensions and additions to the property of such public utilities and may prescribe the necessary forms, regulations and instructions to the officers and employes of such public utilities for the keeping of construction accounts, which shall clearly distinguish all operating expenses and new construction. *Laws 1911, no. 325, sec. 35.*

OREGON, WISCONSIN

Commission shall keep itself informed of all new construction, extensions and additions to the property of such public utilities, and shall prescribe the necessary forms, regulations and instructions to the officers and employes of such public utilities for the keeping of construction accounts, which shall clearly distinguish all operating expenses and new construction. *Ore.—Gen. Laws 1911, ch. 279, sec. 18; Wis.—Laws 1907, ch. 499, sec. 1797m-16.*

¹ "Replacements" occurs in Oregon only.

D. AUTHORITY OF COMMISSION TO HAVE ACCESS TO BOOKS AND RECORDS OF UTILITIES AND TO INSPECT OR EXAMINE THE SAME.

UNITED STATES Commission shall at all times have access to all accounts, records and memoranda kept by carriers and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by commission, and it may employ special agents or examiners, who shall have authority under the order of commission to inspect and examine any and all accounts, records and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. *Act to Regulate Commerce, sec. 20.*

Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$5,000 or imprisonment for a term not exceeding two years or both. *Same.*

ALABAMA Commission, and any member thereof, shall at all times have access to all books, accounts, records, memoranda, contracts and documents kept by such common carrier, railroad corporation and street railroad corporation, wherever the same may be kept, whether within or without the state and may prescribe the accounts in which particular outlays and receipts shall be entered. Commission may designate any of its members or employes, or employ special agents or examiners, who shall thereupon, when so designated or employed, have authority under the orders of commission to inspect and examine, make analysis of and take copies from any and all accounts, records, memoranda, books, contracts and documents of such corporation, whether the same be kept within or without the state. The special agents or examiners, or employes designated or employed as above provided, shall have power to administer oaths, examine witnesses and receive evidence. Any special agent or examiner or other person employed by commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except in so far as he may be directed by commission or by a

court or judge thereof, or as authorized by law, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500. *Acts 1907, sp. sess., no. 17, sec. 3.*

FLORIDA

That the sum of \$25,000 for the period ending June 30, 1913, be, and the same is hereby appropriated to enable commission to audit, investigate and examine into the books, records, vouchers and accounts of the express companies, and of
2755 the railroad companies which are subject to its jurisdiction so that commission can have sufficient information to make rates and regulations upon the principles applied by law, and to defend suits brought against it by common carriers or to bring suits to enforce such rates and regulations. *Laws 1911, ch. 6129, sec. 1.*

Any part of the said appropriation not expended shall revert
2756 to the state treasury. *Same.*

The comptroller is hereby authorized to draw his warrants
2757 upon requisitions of commission, to be audited by him, which warrants shall be paid out of the appropriation made in section one. *Same, sec. 2.*

KANSAS

Commission may examine and audit all accounts, and all items shall be allocated to the accounts prescribed by commission. The agents, accountants or examiners employed by commission shall have authority under the direction
2758 of commission to inspect and examine any and all books, accounts, papers, records, property and memoranda kept by such public utilities and common carriers. The accounts shall be closed annually on June 30 and a balance sheet of that date promptly taken therefrom. *Laws 1911, ch. 238, sec. 29.*

MARYLAND

Commission shall at all times have access to all accounts, records and memoranda kept by common carriers and other corporations, and may prescribe the accounts in which
2759 particular outlays and receipts shall be entered, and may designate any of its officers or employes, who shall thereupon have authority under the order of commission to inspect and examine any and all accounts, records and memoranda kept by such corporations. *Laws 1910, ch. 180, sec. 25.*

Any employe or agent of commission who divulges any fact or information which may come to his knowledge during the
2760 course of any such inspection or examination, except in so far as he may be directed by commission, or by a court or judge thereof, or authorized by law, shall be guilty of misdemeanor. *Same.*

NEBRASKA

Commission shall at all times have access to all accounts, records and memoranda kept by carriers, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by
2761 commission, and it may employ special agents or examiners, who shall have authority under the order of commission to inspect and examine any and all accounts, records and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. *Cobbey's Annot. Stats. 1909, sec. 10650(r).*

Any railway company or common carrier or any person who may have in his or her possession any book, paper, document or record belonging to any railway company or common carrier who shall, upon proper demand, fail or refuse to exhibit to the commissioners, or any of them, or any person authorized by said
2762 commissioners to investigate the same, any book, paper, document or records of such railway company or common carrier, which is in the possession or under the control of said railway company or common carrier, or any officer, agent or employe thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined for each offense a sum not less than \$1,000 nor more than \$5,000. *Same, sec. 10651.*

Any officer, agent or employe of any railroad company or any person who shall upon proper demand, fail or refuse to exhibit to the commissioners, or any of them, or any person authorized by said commissioners to investigate the same, any book, paper, document or records of such railway company or common car-
2763 rier, which is in the possession or under the control of such officer, agent or employe, shall be guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum of not less than \$100 nor more than \$500, or be imprisoned in the county jail not less than ten days nor more than 30 days, or both within the discretion of the court. *Same.*

NEVADA

Any commissioner, or any person or persons authorized by commission, shall have the right to examine the
2764 books, accounts, records and papers of any public utility, for the purpose of determining their correctness, and whether they are being kept in accordance with the rules and system prescribed by commission. *Stats. 1911, ch. 162, sec. 7(c).*

NEW YORK

Commission shall at all times have access to all accounts, records and memoranda kept by railroad and

street railroad corporations and by common carriers, and may
2705 designate any of its officers or employees who shall thereupon
have authority under the order of commission to inspect and
examine any and all accounts, records and memoranda kept
by such corporations. *Laws 1910, ch. 480, sec. 52.*

Any employe or agent of commission who divulges any fact or
information which may come to his knowledge during the course
2706 of any such inspection or examination except in so far as he may
be directed by commission, or by a court or judge thereof, or
authorized by law, shall be guilty of a misdemeanor. *Same.*

Commission may examine the accounts, books, contracts,
records, documents and papers of any such corporation,¹ person
2707 or municipality, and may, after hearing, prescribe by order the
accounts in which particular outlays and receipts shall be en-
tered, charged or credited. *Same, sec. 66(g).*

Commission shall at all times have access to all accounts,
records and memoranda kept by telegraph and telephone cor-
porations, and may designate any of its officers or employees who
shall thereupon be authorized under the order of commission to
inspect and examine any and all accounts, records and memoranda
kept by any such corporation; and commission may, after hear-
ing, prescribe by order, the accounts in which particular outlays
and receipts shall be entered, charged or credited. Any em-
2708 ploye or agent of commission who divulges any fact or informa-
tion which may come to his knowledge during the course of any
such inspection or examination except in so far as he may be
directed by commission or by a court or judge thereof, or author-
ized by law, shall be guilty of a misdemeanor. Any provision of
law prohibiting the disclosure of the contents of telegraph mes-
sages or the contents or substance of telephone communications
shall not be deemed to prohibit the disclosure of any matter in
accordance with the provisions of this chapter. *Same, sec. 95(2).*

OHIO Commission shall, at all times, have access to
all accounts kept by public utilities, and may designate any of its
2709 officers or employees to inspect and examine any and all such ac-
counts. *Laws 1911, no. 325, sec. 12.*

Except in his report to commission or when called on to tes-
tify in any court or proceeding, any such employe or agent who
shall divulge any information acquired by him in respect to the
transaction, property, or business of any public utility, while
2710 acting or claiming to act as such employe or agent shall be fined

¹ Gas and electrical corporations.

not less than \$50 and not more than \$100, and shall thereafter be disqualified from acting as agent, or in any other capacity under the appointment or employment of commission. *Same, sec. 13.*

OREGON Commission shall provide for the examination
2771 and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by commission. *Gen. Laws 1911, ch. 279, sec. 16.*

The agents, accountants or examiners employed by com-
2772 mission shall have authority under the direction of commission to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utilities. *Same.*

SOUTH DAKOTA Commission shall, at all times, have access to
all accounts, records and memoranda kept by carriers and may
2773 employ special agents or examiners who shall have authority, under the order of commission, to examine any and all accounts, records and memoranda kept by any common carrier engaged in intrastate commerce. *Sess. Laws 1911, ch. 207, sec. 48.*

WASHINGTON Commission shall at all times have access to
all accounts, records and memoranda kept by public service com-
panies, and may employ special agents or examiners, who shall
2774 have power to administer oaths and authority, under the order of commission, to examine witnesses and to inspect and examine any and all accounts, records and memoranda kept by such companies. *Laws 1911, ch. 117, sec. 78.*

WISCONSIN Identical with pars. 2771, 2772. *Laws 1907,*
2775 *ch. 499, secs. 1797m-14(1), 1797m-14(2).*

CHAPTER X

Reports

SCOPE NOTE

This chapter includes grants of power authorizing commissions to require formal reports and elicit general information from utilities, and such provisions as impose upon commissions the duty of submitting to designated authorities reports of their own proceedings and of the business and management of utilities. Provisions prescribing the filing of reports by utilities with other bodies or officers than commissions or commissioners have been excluded. For provisions incidentally involving reports of utilities, see ch. ix, on accounts, and ch. iii, on basis of rate making. For provisions authorizing commissions to elicit general information by examining under oath the officers, agents or employes of utilities, see ch. ii, on general powers of commission. For provisions requiring utilities to report or give notice of accidents, see ch. viii, on safety of operation. For provisions requiring the publication and filing with commissions of lists of persons to whom free or reduced rate or special service has been granted, see ch. vi, on discrimination in rates and service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

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A. DUTY OF UTILITIES TO MAKE FORMAL REPORTS TO COMMISSION AND AUTHORITY OF COMMISSION TO ORDER SUCH REPORTS AND PRESCRIBE THE NATURE AND FORM THEREOF.

UNITED STATES Commission may require annual reports from all common carriers, and from the owners of all railroads engaged
2776 in interstate commerce as defined in this act; prescribe the manner in which all such reports shall be made, and require from such carriers specific answers to all questions upon which commission may need information. *Act to Regulate Commerce, sec. 20.*

The annual reports shall contain all the required statistics for the period of 12 months ending on June 30 in each year, or on
2777 December 31 in each year if commission by order substitute that period for the year ending June 30, and shall be made out under oath and filed with commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by commission. *Same.*

If any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by commission, for making and filing the same, or shall fail to make
2778 specific answer to any question authorized by the provisions of this section within 30 days from the time it is lawfully required to do so, such party shall forfeit to the United States the sum of \$100 for each and every day it shall continue to be in default with respect thereto. *Same.*

Commission may by general or special orders require said carriers, or any of them, to file monthly reports of earnings and expenses, and file periodical or special, or both periodical and
2779 special, reports concerning any matters about which commission is authorized or required by this or any other law to inquire or to keep itself informed or which it is required to enforce; and such periodical or special reports shall be under oath whenever commission so requires; and if any such carrier shall fail to make and file any such periodical or special report within the time fixed by commission, it shall be subject to the forfeiture last above provided. *Same.*

Said forfeitures shall be recovered in the manner provided
2790 for the recovery of forfeitures under the provisions of this act.
Same.

The oath required by this section may be taken before any
2791 person authorized to administer an oath by the laws of the state
in which the same is taken. *Same.*

ALABAMA

Whether it be required by commission or not
every railroad corporation, other than street railroad corpora-
tions, shall make and keep a full, true and correct record, memo-
randa or account of the following facts, in addition to such others
as may be required by law or by commission in such manner that
full, true and correct information concerning the same may be
2793 furnished to commission at the end of each fiscal year and at the
end of each quarter of the fiscal year, and may be included in the
annual reports of said corporation to commission, and it shall be
the duty of every such corporation to furnish such information to
commission for any fiscal year and for any quarter of the fiscal
year within 30 days after demand is made for the same by com-
mission. *Acts 1907, sp. sess., no. 17, sec. 4.*

Commission shall prescribe the form of the annual or other
reports required to be made by common carriers, railroad and
street railroad corporations. The form of such reports made by
2793 the railroad corporations shall conform as near as may be to that
required from time to time of common carriers, by the interstate
commerce commission, but commission may from time to time
make such changes therein and additions thereto as it may deem
proper. *Same, sec. 6.*

When the reports of any common carrier, railroad corpora-
2794 tion or street railroad corporation is defective, or believed by
commission to be erroneous, commission shall notify the corpora-
tion to amend the same within 30 days. *Same.*

The originals of the reports shall be preserved in the office
2795 of commission. *Same.*

Commission may also require such corporations to file
monthly reports of earnings and operating expenses within a
2796 specified time, and may require specific answers to questions upon
which it may desire information, to be made in such monthly
reports, or at any other time, or in any special, monthly or annual
report. *Same.*

All such corporations shall file the annual reports herein
2797 referred to with commission on or before September 30 in each

year. Commission may extend the time for making and filing such reports for a period not exceeding 60 days. *Same.*

If any such corporation shall fail to make and file the annual report within the time above specified, or within the time as extended by commission or shall fail to make specific answers to any questions, or fail to make and file the monthly reports when required by commission within 30 days from the time when it is required to make and file any such report or answer, such corporation shall
2788 forfeit to the state the sum of \$100 for each and every day it shall continue to be in default with respect to such report or answers. Such forfeiture shall be recovered in an action brought by commission in the name of the state, in the circuit court or court of like jurisdiction of Montgomery county, and the amount recovered in such action shall be paid into the state treasury and credited to the general fund. *Same.*

See also par. 2688.

ARIZONA

Every public service corporation shall annually furnish to commission at such time and in such form as commission may require a report in which the public service corporation shall specifically answer all questions propounded by commission upon or concerning which commission may desire information.

2789 Commission may require any public service corporation to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special reports concerning any matter about which commission is authorized by this or any other act to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by commission. *Sess. Laws 1912, ch. 90, sec. 29.*

ARKANSAS

Every person or corporation operating any railroad or express company in this state shall make annual returns of the business of said railroad or express company to commission, which returns shall embrace all receipts and expenditures of said railroad or express companies in this state, and to be made according to forms furnished by commission for that
2790 purpose; said returns shall be made within 30 days after the end of each year to which they relate; and the first returns shall be furnished within 30 days after the passage of this act, unless further time is granted by commission; said returns shall be sworn to by some officer of said railroad or express company having knowledge of the matters therein stated. *Kirby's Digest 1904, sec. 6812.*

Any such person or corporation who shall fail or refuse to make such returns shall be liable to a penalty of \$50 for each day of such failure or refusal, such penalty to be recovered by action commenced in the name of the state in any court having jurisdiction of the amount, such action to be prosecuted as hereinafter provided. *Same.*

CALIFORNIA Provision for public utilities identical with par. 2789. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 29.*

CONNECTICUT Every railroad company shall make its annual returns strictly according to the forms provided, and if the officers, trustees, or receivers find it impracticable to return all the items in detail as required, they shall state in their report the reasons why such details cannot be given; but no company shall be excused for not giving such details; because it does not keep its accounts in such manner as will enable it to do so. When any such returns seem to commission defective or erroneous, it shall notify the company, trustees, or receivers making the same, and require the amendment of such returns within 15 days from the time of giving such notice under the same penalty as is provided for refusing or neglecting to make returns. *Gen. Stats. 1902, sec. 3820.*

The officers, trustees or receivers of every railroad company, which had leased a railroad upon terms by which the rental is based upon the earnings of the leased road, shall make returns to commission concerning the leased road, separate and apart from the business of the lessee, and in the same manner in which the officers of said leased railroad would be required to make returns had it not been leased. *Same, sec. 3821.*

Every public service company shall make its annual reports strictly according to the forms provided, and if it shall find it impracticable to answer all the items in detail as required it shall state in its report the reasons why such details cannot be given; but no company shall be excused from giving such details for the reason that it does not keep its accounts in such manner as will enable it to do so. When any such report seems to commission defective or erroneous it may notify the company making the same, and require the amendment of such report within 15 days from the time of giving such notice, under the same penalty as provided for refusing or neglecting to make such report; and commission may examine the officers, agents, and employes, books, records, accounts, vouchers, plant, and equipment of such

company, and may correct such items in such report as, upon such examination, commission may find ought to be corrected. *Pub. Acts 1911, ch. 128, sec. 26.*

Every person who shall wilfully make any false return or report to commission, or to any members thereof, or to any agent or any employe acting therefor, or who shall testify or affirm falsely to any material fact in any matter wherein an oath or affirmation is required or authorized, or who shall make any false entry or memorandum upon any account, book, paper, record, report or statement of any company, or who shall wilfully destroy, mutilate, alter, or by any other means or device falsify or destroy the record
2796 of any such account, book, paper, record, report, or statement with the intent to mislead or deceive commission, or any member thereof, or any agent or employe acting therefor, or who shall wilfully obstruct or hinder commission, or any of its members, agents or employes, in the making of any examination of the accounts, affairs, or condition of any company, and any person who, with like intent, aids or abets another in any of the acts hereinbefore set forth, shall be fined not more than \$5,000, or imprisoned not more than five years, or both. *Same, sec. 27.*

See also par. 2944.

FLORIDA

Every railroad, railroad company and common carrier incorporated or doing business in this state, or which hereafter shall become incorporated or do business in this state shall, annually on or before the first day of August, transmit to
2797 the office of commission a full and true statement, under oath of the proper officers of said corporation, of the affairs of such corporation, company or common carrier as the same existed on preceding July 1. *Gen. Stats. 1906, sec. 2906.*

Every officer, agent or employe of any railroad, railroad company or other common carrier who shall wilfully refuse to make and furnish any report required by commission as necessary
2798 to the purposes of this act, or who shall wilfully and unlawfully hinder, delay or obstruct the commission in the discharge of its duties imposed upon it, may be declared in contempt and punished as provided for in section 2916. *Same, sec. 2918.*

All common carriers shall make to commission annually, at such time as commission shall designate, and in accordance with
2799 such forms as commission shall prescribe, annual reports for the current year ending June 30 immediately preceding, which shall contain a statement of the organization, capitalization, traffic earnings and such other matters connected with their organiza-

tion and operations as commission shall require, which said report shall be verified by affidavits of the principal officers thereof, and commission shall tabulate and file said annual reports, and include them in its annual report to the governor. *Same, sec. 2920. See also pars. 2692, 4079.*

GEORGIA

Every officer, agent or employe of any railroad company who shall wilfully neglect or refuse to make and furnish any report required by commission, as necessary to the purposes of article, or who shall wilfully and unlawfully hinder, delay, or
2800 obstruct said commission in the discharge of the duties hereby imposed upon it, shall forfeit and pay a sum of not less than \$100, nor more than \$500, for each offense, to be recovered in an action of debt in the name of the state. *Code 1911, sec. 2654.*

ILLINOIS

Every railroad company or other common carrier incorporated or doing business in this state, or which shall hereafter become incorporated or do business under any general or special law of the state, shall, on or before September 30, in the
2801 year 1911, and on or before the same day each year thereafter, make and transmit to commission, at its office in Springfield, a full and true statement, under oath of the proper officers of said corporation, of the affairs of the said corporation, as the same existed on preceding July 1. *Revisal 1909, ch. 114, sec. 172.*

Commission may make and propound to common carriers any additional interrogatives, requiring information necessary
2802 to the proper discharge of the duties of commission arising under this act, which shall be answered by such companies in the same manner as those specified in the foregoing section. *Same, sec. 173.*

Sections 172 and 173 shall apply to the president, directors and officers of every common carrier now existing or which shall
2803 be incorporated or organized in this state, and to every lessee, manager and operator of any common carrier within the state. *Same, sec. 174.*

Every owner, lessee or manager of every public warehouse in this state shall furnish in writing, under oath at such times as
2804 commission shall require and prescribe, a statement concerning the condition and management of his business as such warehouseman. *Revisal 1909, ch. 114, sec. 175.*

Every railroad company or other common carrier and every officer, agent or employe of any railroad company or other common carrier, and every owner, lessee, manager or employe of any

warehouse, who shall wilfully neglect to make and furnish any report required in this act at the time required, or who shall wilfully and unlawfully hinder, delay or obstruct commission in the discharge of the duties hereby imposed upon it, shall forfeit and
2205 pay a sum not less than \$100 nor more than \$5,000 for each offense, to be recovered in an action of debt in the name and for the use of the people of the state; and every railroad company, or other common carrier, and every officer, agent or employe of any such railroad company, or other common carrier, and every owner, lessee, manager, or agent or employe of any public warehouse, shall be liable to a like penalty for every period of ten days it or he shall wilfully neglect or refuse to make such report. *Same, sec. 182.*

Commission may call upon such express companies or carriers by express for reports, and investigate their books in the same manner as may be provided by law for the regulation of
2206 railroad companies, which reports shall be furnished to commission on demand. All laws, rules and regulations made and prescribed for the government of railroad, in so far as they are or may be applicable, shall be of equal force against all such express companies or carriers by express. *Same, sec. 375.*

INDIANA

Every carrier shall annually on or before October 1, file with commission, under the signature and oath of its principal accounting officer, a detailed report, in the form prescribed by commission, of all its financial and business operations in this state for the year ending on June 30 preceding, and such report shall embrace such other information and facts as shall be prescribed by the interstate commerce commission for reports of interstate carriers thereto, and such reports shall be in the
2207 form so prescribed, in so far as the same is applicable. Any carrier failing to make such report for 30 days after the same shall be due, unless the time therefor shall be extended by commission, shall forfeit and pay to the state the sum of \$100 for each and every day of such default, to be collected as provided in this act; provided, that the first report required to be made by an electric, interurban or suburban railroad pursuant to this paragraph shall be for the year ending June 30, 1908. *Burns' Annot. Stats. 1908, sec. 5533(1).*

IOWA

Commission shall require annual reports from all common carriers to be made at the same time it makes report
2208 to the executive council, to cover the same period, and prescribe the manner in which specific answers to all questions upon

which it may need information shall be made. *Code 1897, sec. 2143.*

Commission may also require of any and all common carriers such other reports, and fix the time for filing the same, as in its judgment shall be necessary and reasonable, which reports shall be in such form, and concerning such subjects, and be from such
2009 sources as it shall direct, except as otherwise provided herein. Any corporation, company or individual owning or operating a railway within the state, neglecting or refusing to make the required reports by the date fixed, or fixed by commission, shall be subject to a penalty of \$100 for each and every day of delay in making the same after the date thus fixed. *Same.*

KANSAS

To enable commission to make its report, the president or managing officer of each railroad or transportation company shall annually make to commission on September 15 of each year, such returns, in the form which it may prescribe, as will afford the information required for its said official report.
2010 Such returns shall be verified by the oath of the officer making them; and any corporation herein named whose returns shall not be made as herein prescribed by September 15, shall be liable to a penalty of \$500 for each and every day after September 16 that such report shall be wilfully delayed or refused. *Gen. Stats. 1909, sec. 7218.*

Any person who shall wilfully and corruptly swear, testify or affirm falsely to any material matter, upon any oath or affirmation or declaration legally administered in any cause, matter or
2011 proceeding before commission or any member thereof, or in any return, answer or report required by this act to be made, shall be deemed guilty of wilful and corrupt perjury, and shall be punished by imprisonment in the penitentiary at hard labor for a term not exceeding seven years. *Same, sec. 7219.*

Each common carrier and all public utilities shall, on or before September 15, 1912, and on or before the same day in each year thereafter, make and transmit to commission, at its office
2012 in Topeka, Kansas, a full and true statement, under oath, of the proper officers of such corporation, of the affairs of such public utility or common carrier, for the period ending on June 30 preceding. *Laws 1911, ch. 238, sec. 24.*

Said detailed reports shall contain all the required statistics
2013 for the period of 12 months, ending on June 30 of each year, and shall be made under oath, and filed with commission at Topeka, on or before September 15 then next following, unless an addi-

tional time shall be granted in any case by commission; and if any carrier, person or corporation shall fail to make and file such annual reports within the time above specified, or within the time extended by commission for making and filing the same, such party shall forfeit to the state the sum of \$100 for each and every day it shall continue to be in default with respect thereto. *Same.*

KENTUCKY Each officer, agent or employe failing or refusing to make, under oath, any report required by commission within the time required, or failing or refusing to answer fully, under oath, if required, any inquiry propounded by commission, or who shall, in any way, hinder or obstruct commission in the discharge of its duty, shall be guilty of a misdemeanor, and shall 2814 be fined for each offense not less than \$500 nor more than \$1,000, and commission shall prosecute the person offending; and the Franklin circuit court, or the circuit court of any county through which the railroad runs, the officer, agent or employe of which has violated the provisions of this section, shall have jurisdiction of such prosecution; and the commonwealth's attorney shall prosecute all indictments, actions and proceedings under this law. *Carroll's Stats. 1909, sec. 828.*

Every railroad company shall, on or before September 1, in each year, make and transmit to commission, at its office in 2815 Frankfort, under oath of the president or manager of the company, a full and true statement of the affairs of said company as the same existed on the first day of the preceding July. *Wheeler's Stats. 1909, sec. 5409.*

MAINE Every railroad corporation shall, by September 1, make an annual return to commission of its operations for each year ending June 30, verified by the oath of its treasurer, 2816 which return shall be in the form required to be made for the same year to the interstate commerce commission with such additions for any year as may be prescribed before the beginning of the year by commission. *Rev. Stats. 1903, ch. 51, sec. 49.*

Any railroad corporation wilfully neglecting to make such return, forfeits \$1,000 to the state, to be recovered in an action 2817 on the case, or by complaint and indictment; and commission shall notify the attorney general of such neglect, who shall prosecute for the recovery of such forfeiture. *Same.*

MARYLAND Commission shall prescribe the form of the annual reports required under this act to be made by common

carriers, railroads, street railroads, railroad corporations and street railroad corporations and all other corporations subject to the provisions of this act, and may from time to time make such changes therein and additions thereto as it may deem proper; provided, however, that if any such changes or additions require any alteration in the method or form of keeping the accounts of
2818 such corporations, commission shall give to them at least six months' notice before the expiration of any fiscal year of any such changes or additions, and on or before June 30 in each year, shall furnish a blank form for such report. The contents of such report, and the form thereof, shall conform as nearly as possible to that required of common carriers under the provisions of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, and the act amendatory thereof approved June 29, 1906, and other amendments thereto. *Laws 1910, ch. 180, sec. 21.*

Commission may require such report to contain information
2819 in relation to rates or regulations concerning fares or freights, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within the state. *Same.*

When the report of any person or corporation is defective,
2820 or believed to be erroneous, commission shall notify it to amend the same within a time prescribed by commission. *Same.*

The originals of the reports, subscribed and sworn to as pre-
2821 scribed by law, shall be preserved in the office of commission. *Same.*

Commission may also require common carriers to file periodic
2822 reports of earnings and expenses within a specified time. *Same.*

Commission may require of all common carriers specific
2823 answers to questions upon which commission may need information. *Same.*

The annual report required to be filed by a common carrier
2824 shall be so filed on or before September 30 in each year. Commission may extend the time for making and filing such report for a period not exceeding 60 days. *Same.*

If such common carrier shall fail to make and file the annual report within the time above specified, or within the time as extended by commission, or shall fail to make the specific answer to any question, or shall fail to make the periodic reports when required by commission as herein provided, within 30 days from the time when it is required to make and file any such report or
2825 answer, such common carrier shall forfeit to the state the sum

of \$100 for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by commission in the name of the state. The amount recovered in any such action shall be paid to the state treasurer, except one-fourth thereof, which shall be paid to the mayor and city council of Baltimore. *Same.*

Commission shall require every person and every gas or electric corporation under its supervision to submit to it an annual report, verified by the oath of the president, treasurer or general manager thereof. *Same, sec. 31 $\frac{3}{4}$.*

Such reports shall be in the form, cover the period and be submitted at the time prescribed by commission. Commission may, from time to time, make changes and additions in such forms, giving to the persons, corporations and municipalities six months' notice before the time fixed by commission as the expiration of the fiscal year of any changes or additions which would require any alteration in the method or form of keeping their accounts for the ensuing year. When such report is defective or believed to be erroneous commission shall notify the person, corporation making such report to amend the same within 30 days. *Same.*

Any such person or corporation which shall neglect to make any such report within the time specified by commission, or which shall fail to correct any such report within 30 days after notice shall be liable to a penalty of \$100 and an additional penalty of \$100 for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state. The amount recovered in any such action shall be paid to the state treasury, one-fourth thereof, however, shall be paid to the mayor and city council of Baltimore. Commission may extend the time herein limited for cause shown. *Same.*

Commission shall require every person and every telephone or telegraph corporation under its supervision to submit to it an actual (annual?) report, verified by the oath of the president, treasurer, or general manager. *Same, sec. 39.*

Such reports shall be in the form, cover the period and be submitted at the time prescribed by commission. Commission may, from time to time, make changes and additions in such forms, giving to the persons and corporation three months' notice before the time fixed by commission as the expiration of the fiscal year of any changes or additions which would require any alteration in the method or form of keeping their accounts for ensuing

year. When any such report is defective, or believed to be erroneous, commission shall notify the person or corporation making such report to amend the same within 30 days. *Same.*

Any such person or corporation which shall neglect to make any such report within the time specified by commission, or which shall fail to correct any such report within 15 days after notice, shall be liable to a penalty of \$100 and an additional penalty of \$10 for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of this state. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund. Commission may extend the time herein limited for cause shown. *Same.*

MASSACHUSETTS Corporations and companies engaged in the manufacture and sale of gas or electricity for light or heat shall annually on or before the second Wednesday of September, make to commission in a form prescribed by it, a return for the year ending on June 30, preceding, signed and sworn to by its president and treasurer and a majority of the directors. *Rev. Laws 1902, ch. 121, sec. 31.*¹

Each such gas or electric light corporation or company neglecting to make the annual return required by the preceding section, shall, for the first 15 days or portion thereof during which such neglect continues, forfeit \$5 a day; for the second 15 days or any portion thereof, \$10 a day; and for each day thereafter not more than \$15 a day. If any company unreasonably refuses or neglects to make such return, it shall, in addition thereto, forfeit not more than \$500 for each offense. All forfeitures recovered under the provisions of this section shall be paid into the treasury of the commonwealth and applied to the payment of the expenses of commission. *Same, sec. 32.*

Every company engaged in the business of the transmission of intelligence by electricity, within the commonwealth shall annually, on or before October 1, in each year after the year 1906, submit to commission a report of its doing for the year ending on such date or dates preceding as commission may designate, which report shall be in such form and detail as commission may from time to time prescribe, and shall be called the "Annual Return." Such return shall be sworn to by the treasurer and by the chief accounting officer of such company. *Acts 1906, ch. 433, sec. 8.*

Any company engaged in the business of the transmission of

¹ See footnote 1, par. 276.

intelligence by electricity neglecting to make the annual return required by the preceding sections shall, for the first 15 days or portion thereof during which such neglect continues, forfeit \$5 a day; for the second 15 days or any portion thereof, \$10 a day; and
2035 for each day thereafter a sum not exceeding \$15 a day. If any company unreasonably refuses or neglects to make such return, it shall, in addition thereto, forfeit not more than \$500 for each offense. All forfeitures recovered under the provisions of this act shall be paid in to the treasury of the commonwealth. *Same, sec. 9.*

Commission shall prescribe the form for the annual returns to be made by railroad corporations and street railway companies, may, from time to time, make changes and additions in such form, and shall give to the corporations and companies one year's
2036 notice of any changes or additions which require an alteration in the method or form of keeping their accounts. It may change the form of returns of railroad corporations to conform to the form of returns required by the interstate commerce commission, if it gives to such corporations one month's notice of such change. *Acts 1906, ch. 463, pt. i, sec. 20.*

If a return is defective or appears to be erroneous, commission shall notify the corporation or company to amend it within
2037 15 days. The original of each return or amended return, subscribed and sworn to by the directors, treasurer and chief accounting officer of the corporation or company, shall be preserved in the office of commission. *Same.*

The directors of a railroad corporation shall annually, on or before the first Wednesday of September, transmit to commission a report of their doings for the year ending on June 30 preceding which shall be called the annual return and which shall be sworn to by them and by the treasurer and the chief accounting officer of the corporation. Such return shall state whether any fatal accident or serious injury has occurred to a passenger or other
2038 person upon the railroad during the year, and, if so, the cause of such accident or injury and the circumstances under which it occurred; shall set forth copies of all contracts or leases made with other railroad corporations during the year, and specify the receipts and expenditures under the same; and shall include a detailed statement of all particulars relative to the railroad, its business, receipts and expenditures during the year, in such form as shall be prescribed by commission under the provisions of section 20 of part I. *Acts 1906, ch. 463, pt. ii, sec. 248.*

The books of each corporation shall be so kept that returns may be made in exact conformity with the form so prescribed; 2839 and the accounts shall be closed on June 30 in each year, so that a balance sheet of that date can be taken therefrom and included in the return. *Same.*

Every railroad corporation which neglects to make said annual return within the time prescribed in this section, or to amend said return within 15 days, when required by commission 2840 as provided in section 20, shall forfeit, for every such neglect, \$50 for each day during which such neglect continues; and if such corporation unreasonably refuses or neglects to make said return, it shall forfeit for every such refusal or neglect not more than \$5,000. *Same.*

Every railroad corporation which operates a railroad within this commonwealth shall, within 50 days after the expiration of each quarter of the calendar year, transmit to commission a quarterly statement of its business and financial condition, in 2841 such form and with such detail as commission may require, which shall at reasonable times be open to public inspection. A railroad corporation which neglects to comply with the provisions of this section shall forfeit \$50 for each day during which such neglect continues. *Same, sec. 249.*

Every railroad corporation shall, during the continuance of any lease which it has taken of the railroad of another corporation, make all the returns required of the lessor; and during the continuance of such lease, the lessor shall not be required to make 2842 such returns, if, when requested by the lessee, the lessor furnishes all the information in its possession needed to make such returns; but if a railroad in this commonwealth is leased to a lessee in another state, the lessors in this commonwealth shall make the annual return. *Same, sec. 250.*

The directors of every street railway company shall annually, on or before the first Wednesday of November, transmit to commission a return of the doings of the company for the year ending on September 30 preceding, which shall be sworn to 2843 by themselves and by the treasurer and the superintendent of the company. Such return shall set forth copies of all leases and contracts made during the year with other companies and individuals, and shall contain full and complete information upon the several items contained in the form prescribed by commission. *Acts 1906, ch. 463, pt. iii, sec. 151.*

A company which owns a leased railway shall be responsible

for the completeness and correctness of its annual return to the same extent as if the railway were in its own possession. If a return is defective or appears to be erroneous, commission shall notify the company to amend it within 15 days. A company which neglects to make a return, or to amend it when notified so to do, shall forfeit \$25 for each day during which such neglect continues. *Same.*

Commission may make changes in and additions to the form of the returns required by the preceding section, if it gives to the several companies one year's notice of any such changes and additions as require an alteration in the method or form of keeping their accounts. *Same, sec. 152.*

The lessee of a street railway shall make to the company which owns it the same annual return under oath of the operations and business of the railway as is required of the company which owns it; and, for failure so to do, shall be liable in an action of tort to said company for all the penalties prescribed by law for failure by it to make its annual return. *Same, sec. 154.*

Every person, firm, association or corporation doing an express business upon either a railroad or railway in this commonwealth shall annually, on or before the first Wednesday in November, transmit to commission a return of his or its doings for the year ending on September 30 preceding, said return to be under oath of such person or of the financial officer or representative of such firm, association or corporation. The return shall set forth copies of all contracts made during the year with other persons, firms, associations or corporations doing a transportation or express business upon any railroad or railway in the commonwealth, and shall give complete information in reply to the questions presented in the form for such return which shall be prescribed by commission. *Acts 1908, ch. 599, sec. 1.*

If a return made under the provisions of the preceding section appears to be defective or erroneous, commission shall require the person, firm, association or corporation making it to amend it within 15 days. A person, firm, association or corporation neglecting to make a return as herein required or to amend it when requested so to do shall forfeit \$25 for each day during which such neglect continues. *Same, sec. 2.*

The annual returns now required by law to be made to railroad commission shall be returns for the year ending June 30, and shall be transmitted to commission on or before September 30 upon blank forms of return to be furnished by commission on

or before June 1, in each year. The time within which all returns are required by law to be made to commission may be extended by commission to such date subsequent thereto as it may, for good cause shown, fix in any case. *Acts 1909, ch. 502, sec. 1.*
See also par. 2588.

MICHIGAN

Every corporation incorporated under this act¹ shall, on or before May 1, in the year 1882, and on or before the same day in each and every year thereafter, make and transmit to
2580 commission at its office in Lansing, a full and true statement, under oath, of the proper officers of said corporation, of the affairs of said corporation on December 31 preceding. *Comp. Laws 1897, sec. 6372.*

Commission may require of persons, firms or corporations²
2581 annually a verified report upon such form and giving such information as will enable commission to better discharge the duties imposed upon it hereby. *Pub. Acts 1909, no. 106, sec. 6.*

Every common carrier incorporated or doing business in this state, or which hereafter shall become incorporated or do business in this state, shall on or before October 1, 1909, and on or before the same day each year thereafter make and transmit to
2582 commission at its office in Lansing a full and true statement, under oath of the proper official of such corporation, of the affairs of such corporation relative to the state of Michigan for the year ending June 30 preceding, which statement for the state of Michigan shall be similar in character and detail to the annual report, if any, required to be made by such carriers to the interstate commerce commission. *Pub. Acts 1909, no. 300, sec. 30.*

Commission may make and propound to such common carrier subject to the provisions of this act, any other or additional interrogatories relating to the management of such corporation and to the condition of its respective road and rolling stock and
2583 such other subjects as in its judgment may be necessary in order to gain full information in regard thereto. Every common carrier doing business in this state, shall, when so ordered by commission, report to commission its earnings from every source for the period designated in such order, and the proper blanks for that purpose shall be furnished by commission. *Same, sec. 30.*

Each telephone company shall make on or before December 1 of each year upon blanks to be furnished by commission, a state-

¹ An act to authorize the incorporation of companies for the construction of union railroad stations and depots, with the necessary connecting tracks, and the management of the same.

² For the transmission of electricity.

ment of its income and expense for the preceding fiscal year,
2854 amount of stock and other securities issued, investment in ex-
changes, toll lines, real estate and such other information as com-
mission may require, said statement to be made under oath of the
president and secretary of the company. *Pub. Acts 1911, no.*
138, sec. 17.

See also par. 2954.

MINNESOTA On or before April 1 of each year, every rail-
road company which has received lands from the state or the
United States to aid it in the building of its road shall make to
commission a full and complete return of all lands sold or con-
2855 tracted to be sold during the years ending December 31 pre-
ceding, verified by the land commissioner or other proper officer
of such company. All trustees or other persons to whom any
such lands have been conveyed, or by whom such lands are held
or otherwise, shall be subject to this section. *Rev. Laws 1905,*
sec. 1011.

Every carrier subject to supervision of commission shall
annually, on or before September 30, unless additional time be
granted, file with commission a report verified by such carrier,
2856 or by its president, vice-president, treasurer, comptroller,
auditor, or receiver, in such form as commission may prescribe,
covering the year ending June 30 next preceding. *Same, sec.*
1984.

Any such carrier failing to comply with the provisions of this
2857 section or with any order of commission made thereunder shall
forfeit, for each day's default, \$100, to be recovered in a civil
action in the name of the state. *Same.*

MISSISSIPPI All railroads and other common carriers are
2858 required to take notice of the time of making the returns and
reports required by law. *Code 1906, sec. 4833.*

Every railroad shall make quarterly returns to commission,
within 40 days after the end of each quarter, of all receipts and
2859 expenditures of the railroads, and embracing such other proper
matters as commission shall require. The returns shall be
according to forms prescribed by commission. *Same, sec. 4874.*

Every railroad shall make a report to commission, on blanks
to be furnished by it, up to and including June 30 of each year
within 60 days after that date, and to report therein fully as to
2860 all matters required by commission. The report shall give the
name of each person transported free of charge and the consider-

ation for such free transportation, and the number of miles traveled. *Same, sec. 4875.*

The annual reports and quarterly returns shall be sworn to by one or more officers of the railroad or of the persons operating it 2861 who has knowledge of their truth; and any person knowingly swearing falsely to any statement in any of said annual reports or quarterly returns shall be guilty of perjury. *Same, sec. 4876.*

If any railroad shall fail or refuse to make any annual report or quarterly return within the time prescribed, or to report or 2862 return fully in the manner required, it shall forfeit the sum of \$50 for each day's delay, to be recovered in an action to be instituted by commission. *Same, sec. 4877.*

Every express, telegraph (telephone?) and sleeping car company doing business in or through this state shall make the like returns and reports as are required of railroads, of the like dates and within time prescribed for railroads, and on the forms pre- 2863 scribed by commission, and under the like penalty on their several parts and on the parts of their officers, and shall, moreover, by any failure to comply with the law and the reasonable requirements of commission, forfeit its right to do business in this state. *Same, sec. 4878.*

MISSOURI

The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state, shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them at their office or place of business which shall have been established in this state, 30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such railroad 2864 company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before October 1, of each year, transmit to the office of commission a statement in detail of the affairs of such company or corporation as the same existed on June 30 first preceding, and of the business operations of such company or corporation for the year ending June 30 as aforesaid. Said statements must be certified to under oath of the proper officer of said company or corporation, and must be made out upon printed forms, of which forms two shall be furnished

by commission to each company or corporation, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail, of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending June 30 as aforesaid. *Rev. Stats. 1909, sec. 3089.*

The directors of any such railroad company who shall fail to hold such meeting, or neglect to make such report, or fail to **3068** transmit such report to the office of commission within the time prescribed by section 3089 hereof, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$250 nor more than \$1,000. *Same, sec. 3090.*

Every express company shall cause their agents and employees to prepare and furnish a complete verified monthly statement of the amount of business done by each of their respective offices, both state and interstate, on blanks furnished by commission, and which statements shall be filed in the office of **3066** commission. Any such express company, their agents or employees, who shall fail or refuse to furnish such statement, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100, nor more than \$1,000 for each refusal or failure to furnish such statements; such fines to be recovered by the prosecuting attorney of the county where such office is located. *Same, sec. 3288f.*

The directors of every express company or corporation which is now, or hereafter may be organized under the laws of this state shall hold a meeting upon the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business, which shall have been established in this state, 30 days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such **3067** express company or corporation shall be situated. The general manager or other chief officer of every such express company or corporation, and the general manager or other chief officer of every express company or corporation organized under the laws of another state, and doing an express business in this state, shall, on or before October 1, of each year, transmit to the office of commission a statement in detail of the affairs of such company or corporation as the same existed on June 30 first preceding, and of the business operations of such company or corporation for the year ending June 30 as aforesaid. Said

statements must be certified to under oath of the proper officers of said company or corporation, and must be made out upon printed forms, of which forms two shall be furnished by commission to each company or corporation, which printed forms shall contain all the interrogatories necessary to obtain a full statement, in detail, of the organization, condition, business affairs and operations of such express company or corporation for the year ending June 30 as aforesaid. *Same, sec. 3294.*

The directors of any such express company who shall fail to hold such meeting, or neglect to make such report, or fail to
2868 transmit such report to the office of commission within the time prescribed by section 3294, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$250 nor more than \$1,000. *Same, sec. 3295.*

Every owner, lessee and manager of every public warehouse or elevator shall furnish in writing, under oath, at such times as
2869 commission shall require and prescribe, a statement concerning the condition and management of his business as such warehouseman or elevatorman. *Same, sec. 6798.*

MONTANA

Commission shall require verified annual reports from each and every railroad owning, operating or having any line of railroad in this state, prescribe the manner in which such reports shall be made, and may require specific answers to all questions upon which commission may desire information. It shall be the duty of the president or other officer in charge of such railroad to make such report and answers to commission.
2870 Commission may, at such other times as it may deem necessary, require such other information, statements or reports, as may be deemed necessary, and fix the time for filing of the same. Any railroad failing or refusing to make or file such annual report, or failing or refusing to furnish such additional information, statements or reports, as may be demanded by commission, shall forfeit the sum of \$500 for each day that such refusal or neglect shall be continued. *Rev. Codes 1907, sec. 4395.*

NEBRASKA

Every common carrier shall, on August 1, and annually thereafter, transmit to the office of commission
2871 a full and complete statement under oath of its proper officers, of the affairs of such common carrier, as the same existed on the first day of July next preceding. *Cobbey's Annot. Stats. 1909, sec. 10657.*

2872 If any common carrier shall neglect or refuse to file such

statement with commission, it shall forfeit and pay for each such offense not less than \$500 nor more than \$5,000. *Same, sec. 10657(a).*

NEVADA

Every railroad company shall, on or before September 15, 1907, and on or before the same day of each year thereafter, make and transmit to commission in its office in Nevada a full and true statement, under oath of the proper officer of such corporation, of the affairs of such corporation relative to the state of Nevada, for the year ending on June 30, preceding, which statement for the state of Nevada shall be similar in character and detail to the annual report required to be made by railroad companies to the interstate commerce commission, and such other and further information as may be required by commission. *Stats. 1907, ch. 44, sec. 20.*

The accounts of all such public utilities shall be closed annually on June 30, a balance sheet taken promptly therefrom, and full annual reports of the business be made to commission not later than September 15, following the closing of the accounts. The reports shall be made in such form as may be prescribed by commission, and shall contain all the information deemed by commission necessary for the proper performance of its duties. Commission may, at any time, call for desired information omitted from such reports, or not provided for therein, whenever, in the judgment of commission, such information is necessary. *Stats. 1911, ch. 162, sec. 7(b).*

Any officer, agent or person in charge of the books, accounts, records and papers, or any of them, of any public utility, who shall refuse or fail for a period of 30 days to furnish commission with any report required by the provisions of this act, and any officer, agent or person in charge of any particular books, accounts, records, or papers relating to the business of such public utility who shall refuse to permit any commissioner or other person duly authorized by commission to inspect such books, accounts, records, or papers on behalf of commission shall be subject to a fine of not less than \$100 or more than \$500, such fine to be recovered in a civil action upon the complaint of commission in any court of competent jurisdiction; and each day's refusal or failure on the part of such officer, agent or person in charge shall be deemed a separate offense, and be subject to the penalty herein prescribed. *Same, sec. 8.*

Every annual report, record or statement required by this act to be made to commission shall be sworn to by the proper

officer, agent or person in charge of such public utility. Any
2876 intentionally false oath as to the correctness of such report,
record or statement, shall be deemed perjury, and the person
making such false oath shall, upon conviction, be punished as in
the case of other perjuries. *Same, sec. 29.*

NEW HAMPSHIRE Every railroad corporation and public utility
shall file with commission reports at such times, verified by oath
in such manner, and setting forth such statistics and facts as may
2877 be required by commission. In the case of railroad corporations
annual reports shall conform as nearly as may be to those required
of common carriers by the interstate commerce commission.
Laws 1911, ch. 164, sec. 8(a).

If any railroad corporation or public utility shall neglect
or refuse to make and file any report within a time specified by
commission, or shall neglect or refuse to make specific answer to
any question lawfully asked by commission, such railroad cor-
2878 poration or public utility shall forfeit to the state the sum of \$100
for each and every day it shall continue to be in default with
respect to such report or answer, unless it shall be excused by
commission from making such report or answer or the time for
making the same shall be extended by commission. *Same,*
sec. 8(b).

NEW JERSEY Commission may require every public utility
to furnish annually a detailed report of finances and operations,
2879 in such form and containing such matters as commission may
from time to time by order prescribe. *Laws 1911, ch. 195, sec.*
17(e).

Commission may require every public utility to file with
commission a statement in writing, verified by the oaths of the
president and secretary thereof, respectively, setting forth the
name, title of office or position and post-office address, and the
authority, power and duties of every officer, member of the board
of directors, trustees, executive committee, superintendent, chief
or head of construction and operation, or department, division
2880 or line of construction and operation thereof, in such form as to
disclose the source and origin of each administrative act, rule,
decision, order or other action of the corporation, and shall,
within ten days after any change is made in the title of, or author-
ity, powers or duties appertaining to any such office or position,
or the person holding the same, file with commission a like state-
ment, verified in like manner, setting forth such change. *Same,*
sec. 23.

NEW MEXICO Commission shall prescribe the form of all
2281 reports which may be required of corporation by this constitution
or by law, and shall collect, receive and preserve such reports, and
annually tabulate and publish them. *Const., art. xi, sec. 6.*

Commission may at all times inspect the books, papers and
records of all such companies and common carriers doing business
2282 in this state, and require from such companies and common
carriers from time to time special reports and statements, under
oath, concerning their business. Commission may administer
oaths and certify to its official acts. *Const., art. xi, sec. 11.*

NEW YORK Every common carrier, railroad and street
railroad corporation shall file an annual report with commission
verified by the oath of the president, treasurer, general manager
or receiver, if any, of such corporation, or by the person required
2283 to file the same. The verification shall be made by said official
holding office at the time of the filing of the said report, and if
not made upon the knowledge of the person verifying the same
shall set forth the sources of his information and the grounds of
his belief as to any matters not stated to be verified upon his
knowledge. *Laws 1910, ch. 480, sec. 46.*

Commission shall prescribe the form of such reports and the
character of the information to be contained therein, and may
from time to time make such changes and such additions in
regard to form and contents thereof as it may deem proper, and
on or before June 30 in each year shall furnish a blank form for
such annual reports to every such corporation and person. The
contents of such report and the form thereof shall conform in the
2284 case of railroad corporations as nearly as may be to that re-
quired of common carriers under the provisions of the act of
congress entitled "An act to regulate commerce," approved
February 4, 1887, and the acts amendatory thereof and supple-
mentary thereto. Commission may require such report to
contain information in relation to rates or regulations concerning
fares or freights, agreements or contracts affecting the same, so
far as such rates or regulations pertain to transportation within
the state. *Same.*

When the report of any such corporation or person is de-
2285 fective, or believed to be erroneous, commission shall notify the
corporation or person to amend the same within a time prescribed
by commission. *Same.*

2286 The originals of the reports, subscribed and sworn to as pre-

scribed by law, shall be preserved in the office of commission.
Same.

The annual report required to be filed by a common carrier,
2887 railroad or street railroad corporation shall be so filed on or
before September 30 in each year. *Same.*

Commission may also require such corporations and persons
to file periodic reports in the form, covering the period and at the
2888 time prescribed by commission. Commission may require of
any such corporation or person specific answers to questions
upon which commission may need information. *Same.*

Commission may extend the time for making and filing such
report for a period not exceeding 60 days. If such corporation
or person shall fail to make and file the annual report within the
time above specified or within the time as extended by com-
mission, or shall fail to amend such report within such reason-
able time as may be prescribed by commission, or shall fail to
make specific answer to any question, or shall fail to make the
periodic reports when required by commission as herein pro-
2889 vided, within the time and in the form prescribed by commis-
sion for the making and filing of any such report or answer, such
corporation or person shall forfeit to the state the sum of \$100
for each and every day it shall continue to be in default with
respect to such annual report, amendment, answer or periodic
report. Such forfeiture shall be recovered in an action brought
by commission in the name of the people of the state. The
amount recovered in any such action shall be paid into the state
treasury and credited to the general fund. *Same.*

Any railroad corporation or common carrier other than a
street railroad corporation operating partly within the second
district and partly within the first district shall report to com-
mission of the second district; but commission of the first dis-
trict may, upon reasonable notice, require a special report from
2890 such railroad corporation or common carrier. Any street rail-
road corporation operating partly within the first district and
partly within the second district shall report to commission of
the first district; but commission of the second district may,
upon reasonable notice, require a special report from such
street railroad corporation. *Same.*

Commission shall require every person and corporation¹
and every such person and corporation shall file with commis-
sion an annual report, verified by the oath of the president,

¹ Gas and electric utilities.

treasurer, general manager or receiver, if any, thereof. The
2891 verification shall be made by said official holding office at the
time of the filing of said report, and if not made upon the knowl-
edge of the person verifying the same shall set forth the sources
of his information and the grounds of his belief as to any matters
not stated to be verified upon his knowledge. *Same, sec. 66(6).*

Such reports shall be in the form, cover the period and be
filed at the time prescribed by commission. Commission may,
from time to time, make changes and additions in such forms.
2892 When any such report is defective or believed to be erroneous,
commission shall notify the person, corporation or municipality
making such report to amend the same within a time prescribed
by commission. *Same.*

Any such person or corporation or municipality which shall
neglect to make any such report or which shall fail to correct any
such report within the time prescribed by commission shall be
liable to a penalty of \$100 and an additional penalty of \$100 for
2893 each day after the prescribed time for which it shall neglect to
file or correct the same, to be sued for in the name of the people
of the state. The amount recovered in any such action shall be
paid into the state treasury and be credited to the general fund.
Commission may extend the time prescribed for cause shown.
Same.

Commission may require of all such corporations, persons
or municipalities,¹ specific answers to all questions upon which
commission may need information, and may also require such
corporation, persons or municipalities to file periodic reports in
the form, covering the period and filed at the time prescribed by
commission. If such corporation, person or municipality shall
fail to make specific answer to any question or shall fail to make a
periodic report when required by commission as herein pro-
2894 vided within the time and in the form prescribed by commission
for the making and filing of any such report or answer, such cor-
poration, person or officer of the municipality shall forfeit to the
state the sum of \$100 for each and every day it shall continue to
be in default with respect to such report or answer. Such for-
feiture shall be recovered in an action brought by commission in
the name of the people of the state. The amount recovered in
any such action shall be paid into the state treasury and be
credited to the general fund. *Same, sec. 66(10).*

Every telegraph and every telephone corporation shall file

¹ Gas and electric utilities.

with commission an annual report at a time and covering the yearly period fixed by commission. Such annual report shall be verified by the oath of the president, treasurer, general manager or receiver of any of such corporations, or by the person required 2298 to file the same. Verification shall be made by the official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth in general terms the sources of his information and the grounds for his belief as to any matters not stated to be verified on his knowledge. *Same, sec. 95(1).*

Commission shall prescribe the form of such reports and the character of the information to be contained therein and may, from time to time make such changes and additions in regard to form and contents thereof as it may deem proper, and shall 2296 furnish a blank form for such annual reports to every telegraph and every telephone corporation required to make the same. When the report of any telegraph or telephone corporation is defective or erroneous commission shall notify the corporation to amend the same within a time prescribed by commission. *Same.*

The said reports shall be preserved in the office of commis- 2297 sion. *Same.*

Commission may require of any telegraph or telephone cor- 2298 poration specific answers to questions upon which commission may desire information. *Same.*

If any telegraph or telephone corporation shall fail to make and file its annual report as and when required or within such extended time as commission may allow or shall fail to make specific answers to any question within the period specified by commission for the making and filing of such answers, such corporation shall forfeit to the state the sum of \$100 for each and 2299 every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by commission in the name of the people of the state. The amount recovered in any such action shall be paid into the state treasury and shall be credited to the general fund. Commission may, when it deems it advisable, exempt any telegraph or telephone corporation from the necessity of filing annual reports until the further order of commission. *Same.*

See also pars, 455, 461, 465, 2723.

NORTH CAROLINA Every officer, agent or employe of any railroad, express or telegraph company who shall wilfully neglect or refuse

to make and furnish any report required by commission, for the purposes of this chapter, or who shall wilfully or unlawfully
2900 hinder, delay or obstruct commission in the discharge of the duties hereby imposed upon it, shall forfeit and pay \$500 for each offense, to be recovered in an action in the name of the state. A delay of ten days to make and furnish such report shall raise the presumption that the same was wilful. *Pell's Revisal 1908, sec. 1089.*

The fiscal year for which all reports shall be made which
2901 may be required of any railroad or transportation company by commission under this chapter shall end on June 30. *Same, sec. 1116.*

NORTH DAKOTA To enable commission to make its report, the president or managing officer of each railroad, railroad corporation or common carrier shall annually make to commission on July 15, such returns in the form which it may prescribe as will afford the information required for its official report; such returns
2902 shall be verified by oath of the officer making them, and any railroad, railroad corporation or common carrier whose return shall not be made as herein prescribed by July 15 shall be liable to a fine of \$500 for each and every day after July 16 that such returns shall be wilfully delayed or refused. *Rev. Codes 1905, sec. 4363.*

Commission may require of any and all railroads, railroad corporations and common carriers, such special reports, besides the annual report hereinbefore required, as in the judgment of commission shall be deemed necessary and reasonable. Such special reports shall be in such form and concerning such subjects and be from such sources as commission shall require,
2903 except as otherwise provided herein. The time when such special report shall be filed shall be fixed by commission. Any railroad, railroad corporation or common carrier which shall fail, neglect or refuse to make any of the special reports provided for herein by the date fixed by commission shall be subject to, and pay a penalty in the sum of \$100 for each and every day of delay in making such reports after the date fixed. *Same, sec. 4365.*

Commission shall require annual reports from all common carriers, prescribe the manner in which such reports shall be made, and require from such carriers specific answers to all questions upon which commission may need information. Such annual reports shall, in addition to the information required by

2904 section 4363 contain such information in relation to rates or regulations concerning fares or freights and agreements, arrangements or contracts with express, telegraph or sleeping and dining car companies, fast freight lines and other common carriers, as commission may require, with copies of such contracts, agreements or arrangements. *Same, sec. 4377.*

See also par. 2596.

OHIO

Within 30 days after the election of the directors of a railroad, or telegraph company, now doing business, or whose line is in process of construction, or which hereafter may be organized in the state, the secretary of such companies shall make and forward to commission a list of the officers and directors thereof, giving the place of residence and post office address of each. If a change occurs in the organization of the officers or board of directors of a railroad or company, the secretary shall notify commission of such change and the residence and post office address of each of the officers and directors. *Code 1910, sec. 602.*

On or before September 15, in each year, each railroad or telegraph company shall make and transmit to the commission a full and true statement under oath of the proper officers of such corporation, of the affairs of such corporation relative to the state of Ohio for the year ending on June 30, preceding. Such statement shall be similar in character and detail to the annual report required to be made by railroad companies to the interstate commerce commission. Commission may submit additional interrogatories to a railroad or telegraph company at any time. If such report is defective or erroneous, commission may require the railroad or telegraph company to correct or amend it within 15 days. *Same, sec. 605.*

A railroad company or telegraph company violating a provision of the preceding three sections shall forfeit and pay to the state \$1,000, and \$25 for each day such company refuses, neglects or fails to comply with a requirement of such sections, which forfeiture shall not release such company from the assessment provided in the next preceding section. *Same, sec. 607.*

Every public utility shall file with commission, at such times and in such form as it may prescribe, an annual report, duly verified, covering the yearly period fixed by commission. Commission shall prescribe the character of the information to be embodied in such annual report, and shall furnish to each public utility a blank form therefor. If any such report is defective

or erroneous, commission may order the same to be amended within a prescribed time. Such annual reports shall be preserved in the office of commission. Commission may at any time require specific answers to questions upon which it may desire information. *Laws 1911, no. 325, sec. 50.*

OKLAHOMA The president or superintendent of every railroad company and other public service corporation shall report annually under oath, and make such reports as may be required 2909 by law or order of commission, to commission of their acts and doings, which report shall include such matters relating to railroads and other public service corporations as may be prescribed by law. *Const., art. ix, sec. 6.*

Commission may require from transportation and trans- 2910 mission companies from time to time special reports and statements under oath concerning their business. *Same, sec. 18.*

OREGON Every railroad shall annually, on or before September 15, unless additional time be granted, file with commission a report verified by such railroad, or by its president, 2911 vice-president, treasurer, comptroller, auditor, or receiver, managing partner, or agent, or owner, in such form as commission may prescribe covering the year ending June 30 next preceding. *Gen. Laws 1907, ch. 53, sec. 40.*

Any railroad failing to make such report shall forfeit to the 2912 state, for each day's default, \$100, to be recovered in a civil action in the name of the state. *Same.*

The accounts shall be closed annually on June 30 and a balance sheet of that date promptly taken therefrom. On or 2913 before the first day of August following, such balance sheet, together with such other information as commission shall prescribe, verified by an officer of the public utility, shall be filed with commission. *Gen. Laws 1911, ch. 279, sec. 15.*

PENNSYLVANIA Commission may require every common carrier to file with it a copy of its annual reports, as filed with the interstate commerce commission; and as to all common carriers 2914 subject to this act, and not subject to the interstate commerce commission, may require that such common carriers file annual reports in the form prescribed by commission. *Laws 1907, no. 250, sec. 12.*

SOUTH CAROLINA The several railroad companies shall be required to file in the office of commission, on or before August 31;

in each and every year, a full and detailed schedule and report of the condition and operations of such road for the current year, ending on June 30, then immediately preceding. Such schedule and report shall be made in accordance with the following rules and form: I. All liabilities (including interest accrued on funded debt) shall be entered upon the books in the month when they are incurred, without reference to date of payment. II. Expenses shall be charged each month with such supplies, materials, etc., as have been used during that month, without reference to the time when they were purchased or paid for. III. No expenditure shall be charged to property accounts, except it be for actual increase in construction, equipments, or other property, unless it is made on old work in such a way as to clearly increase
2915 the value of the property over and above the cost of renewing the original structures, etc. In such cases, only the amount of increased cost shall be charged, and the amount allowed on account of the old work shall be stated. IV. Mileage of passenger and freight trains shall include only the miles shown to be run by distances between stations; allowances made to passenger or freight trains for switching, and all mileage of switch engines, computed on a basis of eight miles per hour for the time of actual service, shall be stated separately. V. Season ticket passengers shall be computed on the basis of 12 passengers per week for the time of each ticket. VI. Local traffic shall include all passengers carried on local tickets, and all freight carried at local tariff or special local rates. All other traffic shall be considered through. These rules to be subject to such changes thereof as have heretofore been or shall hereafter be made by commission under the authority conferred on them by section 2076 of this chapter.
Gen. Stats. 1902, sec. 2039.

Commission shall require the annual reports to be made by railroad companies in manner and form and at the time provided for herein, and shall be authorized to require reports to be made of such other matters as it may deem expedient; and it may
2918 from time to time, make such changes as it may deem proper in the form of report herein prescribed, giving the corporations one year's notice of any such changes or additions as require any alterations in the method or form of keeping their accounts.
Same, sec. 2075.

When the report received from any corporation is defective, or probably erroneous, commission shall notify the corporation to amend the same within 15 days. Commission shall prepare

such tables and abstracts of all the returns it shall deem expedient,
2917 and its annual report shall be transmitted to the governor of the
state on or before the second Monday in November in each year,
to be laid before the legislature. The originals of the report or
reports, as amended, subscribed, and sworn to by the officers of
the corporation, shall be preserved in the office of commission.
Same.

Every officer, agent or employe of any railroad company
who shall wilfully neglect, or refuse to make, any report required
by commission as necessary to the purposes of this chapter, or
2918 who shall wilfully and unlawfully hinder, delay or obstruct
commission in the discharge of the duties imposed upon it, shall
forfeit and pay a sum of not less than \$100 nor more than \$1,000
for each offense, to be recovered in any action in the name of
the state as provided in section 2117. *Same, sec. 2078.*

Commission may make and propound to any of the railroad
companies of this state any interrogatories additional to those
2919 contained in the schedule and report hereinbefore provided,
which shall be answered by such companies in the same manner.
Same, sec. 2079.

All railroad companies owning or operating a line of railroad
situated in whole or in part within the limits of this state, shall
2920 deposit with commission a list containing the names and resi-
dences of the president and board of directors of the railroad
company owning or operating the said line of railroad. *Same,*
sec. 2120.

SOUTH DAKOTA Every owner or manager of such licensed
warehouse or elevator, at such times as commission shall re-
quire, shall furnish to commission in writing, under oath, a
statement of the condition and management of his business as
such warehouseman. Such report shall show the total number of
bushels of each kind and grade of grain purchased and in store,
2921 and the number delivered out, and the number remaining in
store at the date of the report. But no warehouseman shall be
required to weigh the grain on hand more than once in each year;
and the warehouseman shall, in addition to the statement herein,
be required to furnish to commission any other information re-
garding the business of his warehouse which commission may
require. *Rev. Pol. Code 1903, sec. 489.*

Each railroad company owning or operating a line or rail-
road in this state shall, on or before July 1, in each year, make
and file in the office of commission a detailed, itemized statement

or report showing the number and location of all elevators, warehouses and coal sheds on its line of railroad in this state, the amount of ground space occupied by each with its value placed thereon, the names of the persons or corporations owning said elevators, the names of the persons or corporations operating said elevators, the amount of rental paid for each elevator site to said railroad company, and if any of the owners of said elevators shall own the sites occupied, such reports shall show the name of such owner and the location of such elevator. *Sess. Laws 1909, ch. 28, sec. 1.*

Commission may require of any and all railroad companies, subject to the provisions of this act, such other reports besides the annual reports hereby required, as in the judgment of commission shall be deemed necessary for its information, and shall fix the date for filing such report. Any corporation or person owning or operating a line of railroad in this state which shall fail, neglect, or refuse to make any of the reports provided for herein by the date fixed, or that fixed by commission, or who shall make a false report, shall be subject to and pay a penalty in the sum of \$100 for each and every day of delay in making such reports, after the date fixed. *Same, sec. 2.*

Every telephone company, whenever required by commission, shall by its president, secretary, or manager file with commission, a statement, under oath, in such form as commission may prescribe, showing the following facts: (1) The total number of miles of line owned, operated or leased by it within the state; the number of miles of each separate line or division thereof, together with the number of separate wires thereon, and stating the counties through which the same extend or in which such company does business. (2) The number of miles in each county, the number of stations and number of telegraph or telephone instruments used in each county. (3) The average number of poles per mile used in constructing such lines. (4) The actual value of said wires, poles, instruments and all other property owned by it in this state, with the value of its franchises stated separately. (5) The number of offices maintained by the company in this state, and the total gross and net receipts of each office for the year ending April 30, preceding the making of said statement. (6) The number of miles of line built by said company in this state during each year, with the number of poles and miles of wire used therein and the actual cost of such line as built. *Sess. Laws 1909, ch. 289, sec. 3.*

Commission may call upon any telephone company or lessee, or operator of any telephone line or exchange, for such reports as it may deem necessary or proper for its information, and enforce
2925 all its orders and regulations in the same manner provided for the enforcement of its orders and regulations with reference to other common carriers. *Same, sec. 11, as amended by Sess. Laws 1911, ch. 218, sec. 7.*

Commission may require annual reports from all common carriers, fix the time and prescribe the manner in which such
2926 reports shall be made, and require from such carriers specific answers to all questions upon which commission may need information. *Sess. Laws 1911, ch. 207, sec. 24.*

All such reports shall be made to commission on or before
2927 September 15, of each year. *Same.*¹

TENNESSEE

Each and every railroad company, corporation or individual, owning, operating or managing a railroad shall furnish to commission at its office in Nashville, the monthly, quarterly, and annual statements of the operations of their respective roads, if such reports are issued; if not, then they shall send such reports as may be issued at any special or regular time. The president or chief officer of each and every railroad company,
2928 corporation or individual, owning, operating or managing any railroad in this state, shall on or before the first day of February of each year, make and transmit to commission at its office in Nashville, under oath of the president or chief officer of the company, a full and true statement of the affairs of said company as the same existed on the first day of the preceding January, in accordance with the direction and schedules prepared and furnished by commission. *Acts 1897, ch. 10, sec. 12.*

Any officer, agent or employe, failing or refusing to make, under oath, any report required by commission, within the time required, or failing or refusing to answer fully under oath, if
2929 required, any inquiry propounded by commission, or who shall, in any way, hinder or obstruct commission, in the discharge of its duties shall be guilty of a misdemeanor and shall be fined for each offense not less than \$500 nor more than \$1,000. *Same, sec. 13.*

¹ Commission is also hereby authorized to require of any and all common carriers, such other reports, besides the annual reports, hereby required, as in the judgment of commission shall be deemed just and reasonable. Such reports shall be in such form and concerning such subjects and be from such sources as commission shall require, except as otherwise provided herein. The time when such reports shall be filed shall be fixed by commission. Any common carrier and any corporation, company, or individual owning or operating a common carrier within this state which shall fail, neglect or refuse to make any of the reports provided for herein by the date fixed herein, or that fixed by commission, shall be subject to and pay a penalty in the sum of \$100 for each and every day of delay in making such reports, after the date fixed. *Sess. Laws 1911, ch. 207, sec. 26.*

TEXAS

Any incorporated express company with its principal office in another state, and doing business as such express company in this state, is hereby required to provide and keep in its general office in this state a copy of its charter, and to make full annual statements of the value of all its property, including alike statement of all its indebtedness, and of all its annual receipts and expenditures as such express company to commission, at such time or times as may be prescribed by it; which statement shall be certified to be correct, and shall be sworn to by the president and secretary, or general manager in Texas, of such company; 2920 and such company shall permit any member or members of commission, or its authorized agent, to freely examine any and all books, papers and contracts in said office; and should any such company, or any person in charge of said office, refuse to permit such examination, this shall be sufficient ground for the withdrawal, by this state, of its privilege of doing business as such express company in this state; and it shall be the duty of the attorney general of the state to institute and conduct suits for that purpose in a court having jurisdiction in Travis County, in the state of Texas. *Sayles' Civ. Stats. 1897, art. 2431.*

See also par. 450.

VERMONT

A corporation, which hereafter shall organize under the general law or by special statute and which is subject to supervision under No. 116 of the acts of 1908, immediately upon the granting of its charter, shall file with commission a copy of its articles of association and a copy of its certificate of paid up capital stock; and also immediately after its organization thereunder shall forward to commission a copy of the record of its 2921 organization containing the names and addresses of the directors and other officials of said company. And one, not a corporation, engaging in business which is subject to supervision under said act, numbered 116 of the acts of 1908, at the time of commencing such business shall file with commission a written statement giving the location, nature and extent of such business, together with the post office address of the owner, or owners, business manager and other officials. *Laws 1910, no. 145, sec. 1.*

See also pars. 2732, 3022, 3024.

VIRGINIA

Commission may require from transportation 2922 and transmission companies from time to time, special reports and statements, under oath, concerning their business. *Const., sec. 156(b).*

Every domestic corporation and every foreign corporation¹ doing business within this state shall file in the office of commission, after the first election of officers and directors, and annually thereafter, within 30 days after the time appointed for holding the annual election of directors, a report authenticated by the signature of the president or one of the vice-presidents or of secretary of the corporation stating: (a) The name of the corporation. (b) The location (county or city, street and number, if any there be) of its principal office in the state and the name of the agent upon whom process against the corporation may be served. (c) The character of its business. (d) The amount of its authorized capital stock, if any, and the amount actually issued and outstanding. (e) The names and addresses of the officers and directors of the corporation, and when their respective terms of office expire. (f) The date, if any, appointed for the next annual meeting of the stockholders. *Pollard's Code 1904, sec. 1105e(39), as amended by Laws 1906, ch. 17.*

If such report is not made and so filed, the corporation shall be subject to a fine of not less than \$25 nor more than \$100, to be imposed and judgment entered therefor by commission and enforced by its process. *Same.*

Every railroad, canal, turnpike or other internal improvement company, to the stock of which there has been a subscription on behalf of the state, shall, on or before the first day of September in each year, make a report to commission, setting forth the condition of the work; the expenditures for such year, and receipts for the same time; and how much from each source of revenue. The report shall be accompanied by a list of the stockholders in the company at the time of making the same, and shall give such other information respecting the affairs under the management of those making it as commission may previous to the first day of September have requested. *Same, sec. 1294b(9).*

All persons having the management or superintendence of any work on any turnpike or other internal improvement, made on the state account, or of work undertaken partly on the state account and partly by others in the state (except such roads or turnpikes as have been transferred to the courts of the respective counties through which they pass) shall annually, before September 1 make a report similar to that required by the pre-

¹ The provisions of this chapter, except in those cases where, by the express terms of the provisions hereof, it is confined to corporations created under this act, shall be construed to apply to all corporations of this state organized or to be organized for any lawful purpose for which a corporation may be created under this act, but shall not be construed to enlarge the powers of corporations chartered under chapter four of this act. *Pollard's Code 1904 sec. 1105e(1).*

ceding section, so far as the same is applicable. *Same, sec. 1294b(10).*

Every officer, agent, or employe of any transportation company who shall wilfully neglect or refuse to make and furnish any report lawfully required by commission for the purposes of this
2937 act or who shall wilfully or unlawfully hinder, delay or obstruct commission in the discharge of the duties imposed upon it by the constitution, or by law, connected with the objects and purposes of this act, shall be fined \$500 for each offense. *Same, sec. 1294 c(22).*

WASHINGTON Every public service company shall annually furnish to commission a report in such form as commission may
2938 require, and shall specifically answer all questions propounded to it by commission, upon or concerning which commission may need information. *Laws 1911, ch. 117, sec. 78.*

Such detailed report shall contain all the required statistics for the period of 12 months ending on the last day of any particular month prescribed by commission for any public service company. Such reports shall be made out under oath and filed with
2939 commission at its office in Olympia within three months after the close of the designated year for which such report is made, unless additional time be granted in any case by commission. *Same.*

Commission may require any public service company to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any
2940 matter about which commission is authorized or required by this or any other law, to inquire into or keep itself informed about, or which it is required to enforce, such periodical or special reports to be under oath whenever commission so requires. *Same.*

See also par. 2734.

WISCONSIN The account shall be closed annually on June 30 and a balance sheet of that date promptly taken therefrom.
2941 On or before the first day of August following, such balance sheet together with such other information as commission shall prescribe, verified by an officer of the public utility, shall be filed with commission. *Laws 1907, ch. 499, sec. 1797m-13.*

Every corporation, foreign or domestic, authorized to transact business in Wisconsin, shall, on request of commission, furnish a complete list of its stockholders and a statement of the amount of stock held in the corporation by each such stockholder,

2942 duly verified by the president or secretary of such corporation. Any corporation refusing or neglecting to furnish such list of stockholders for a period of 20 days after request therefor is made in writing shall be liable to the penalties provided for in section 27 of chapter 362 laws of 1905. *Laws 1907, ch. 582, sec. 1797-18(e).*

B. AUTHORITY OF COMMISSION TO FURNISH BLANK FORMS FOR REPORTS AND DUTY OF UTILITIES WITH RESPECT THERETO.

ARIZONA, CALIFORNIA¹ Every public service corporation¹ receiving from commission any blanks with directions to fill the same shall cause the same to be properly filled out so as to answer fully and **2943** correctly each question propounded therein: in case it is unable to answer any question, it shall give a good and sufficient reason for such failure. *Ariz.—Sess. Laws 1912, ch. 90, sec. 28(b). Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 28(b).*

ARKANSAS *See par. 2790.*

CONNECTICUT Commission shall annually, on or before June 30 furnish to every public service company duplicate blanks for reports, in such form as commission may prescribe; provided, that such blanks for reports to be furnished by companies engaged in interstate commerce shall be in the form, if any, required by the interstate commerce commission. All reports shall be for the year ending on June 30. Every such company receiving **2944** such blank forms shall return one of them to commission on or before September 15 next following, with all questions therein fully answered. Such report shall be signed and sworn to by the president or vice-president and treasurer of the company, or by a majority of the trustees or receivers, making the same. Every company which shall refuse or neglect to make such report shall forfeit to the state \$25 for each day of such neglect or refusal, and commission shall report such forfeiture to the state treasurer, who shall collect the same. *Pub. Acts 1911, ch. 128, sec. 25.*

See also pars. 2793, 2795.

INDIANA Commission may elicit all information deemed by it necessary to the hearing and consideration of any complaint made to commission and may elicit from any railroad company or companies, or any other person or corporation to be affected by

¹ "Public utility," in California.

any such investigation, any and all information necessary to the consideration and determination of any and all questions over which commission shall have jurisdiction and for said purpose commission may submit blanks provided for the purpose of eliciting such information or may submit written interrogatories to such railroad company or companies or person or corporation, 2945 and said blanks shall be properly filled out and said interrogatories so answered as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question they shall give a satisfactory reason for their failure, and their said answers, duly sworn to by the proper officers of said company or corporation or by said person, shall be returned to commission at its office in the city of Indianapolis within the time fixed therefor by commission in its order, or commission may use such other means or methods of securing such information as may be deemed expedient by it. *Acts 1907, ch. 241, sec. 10, as amended by Acts 1911, ch. 225, sec. 2.*

If any such carrier, its officer or employe, or any other person or corporation their agents or employes, as aforesaid, shall fail or refuse to fill out and return any blank or to answer any interrogatories as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, or shall evade the answer to any such question, such carrier, officer, employe or person shall be guilty of a misdemeanor, 2946 and shall on conviction thereof, be fined for each day he or it shall fail to perform such duty, after the expiration of the time aforesaid, a penalty of \$500 and commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered in a civil action from the railroad company or other corporation or employe when it appears that such officer or employe acted in obedience to the directions of such carrier in his failure to comply with the order of commission. *Same, sec. 10(a), as amended by Acts 1911, ch. 225, sec. 2.*

KANSAS

Commission shall cause to be prepared suitable blanks, with questions calculated to elicit full information concerning the value and operation of railroads in the state and as often as it may be necessary furnish said blanks to each railroad company operating lines of railroads in this state. Any such railroad company receiving from commission any such 2947 blanks shall cause such blanks to be properly filled out, so as to answer fully and correctly each question therein propounded; and in case they are unable to answer any question they shall

give a satisfactory reason for their failure, and said answer, duly sworn to by the proper officer of the company, shall be returned to commission at its office in the city of Topeka, within 30 days from the receipt thereof. *Gen. Stats. 1909, sec. 7218.*

If any officer or employe of any such railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such questions where the facts inquired of are within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100 nor more than \$500 for each offense, and each day he shall fail to perform such
2948 duty after the expiration of the time aforesaid shall constitute a separate offense, and the attorney for commission shall cause a prosecution therefor in the proper court. If any such company shall direct, permit or request any such officer or employe to fail, evade or refuse to answer such questions, such company shall forfeit and pay to the state the sum of \$500 per day for each day that such officer or employe fails to answer such questions, to be recovered in an action to be brought in the name of the state by the attorney general in any court of competent jurisdiction, to be paid into the school fund of the state. *Same.*

KENTUCKY Commission shall furnish to each company in
2949 proper time blanks upon which to answer the questions prescribed by statute and such other questions as may be propounded. *Wheeler's Stats. 1909, sec. 5409.*

MAINE Blank forms for annual returns shall be seasonably prepared and furnished to each railroad corporation by
2950 commission. *Rev. Stats. 1903, ch. 51, sec. 49.*

MARYLAND *See par. 2818.*

MASSACHUSETTS Commission shall annually, on or before June
2951 15, furnish to railroad corporations, and annually on or before September 15 furnish to street railway companies, blank forms of returns. *Acts 1906, ch. 463, pt. i, sec. 20.*

Commission shall annually, on or before September 15, furnish
2952 blank forms for annual returns of street railway companies. *Acts 1906, ch. 463, pt. iii, sec. 152.*

See also par. 2849.

MICHIGAN Commission shall cause to be made suitable
2953 blanks at the expense of the state, and forward the same to such

railroad corporations,¹ upon which to make the reports required by this act. *Comp. Laws 1897, sec. 6372.*

It shall be unlawful for any officer, agent or employe of any common carrier to wilfully fail or refuse to fill out and return any blank or make any report as required by this act, or to wilfully fail or refuse to answer any questions therein propounded, or to knowingly or wilfully give a false answer to any such question
2954 or to evade the answer to any such question where the fact inquired of is within his knowledge, or to, upon proper demand, wilfully fail or refuse to exhibit to any commissioner or any commissioners, or any person authorized to examine the same, any book, paper, or account of such common carrier which is in his possession or under his control. *Pub. Acts 1909, no. 300, sec. 20.*

Commission shall cause to be prepared for the purposes designated in this act blanks which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall when necessary furnish such blanks to each common carrier. Any common carrier receiving from commission any such blanks shall cause the same to be properly filled out so as to answer fully and correctly each question therein
2955 propounded, and in case it is unable to answer any question it shall give a full and sufficient reason for such failure; and said answer shall be verified under oath by the proper officer of said common carrier and returned to commission at its office within the time fixed by commission. The making of a false affidavit or the filing of the same shall be deemed perjury and punishable as such under the statutes of Michigan defining perjury. *Same, sec. 28(b).*

Commission shall cause to be made suitable blanks at the
2956 expense of the state, and forward the same to such common carrier, upon which to make reports required by this act. *Same, sec. 30.*

See also pars. 2853, 2854.

MISSISSIPPI *See par. 2860.*

MISSOURI *See pars. 2864, 2866, 2867.*

NEBRASKA *See pars. 647, 651.*

NEVADA Commission shall cause to be prepared suitable blanks for the purposes designated in this act, which shall conform as nearly as practicable to the forms prescribed by the in-

¹ See note 1, par. 2850.

terstate commerce commission, and shall, when necessary, furnish such blanks to each railroad. Any railroad receiving from commission any such blanks shall cause the same to be properly filled out so as to answer fully and correctly each question therein
2997 propounded, and in case it is unable to answer any question it shall give a good and sufficient reason for such failure, and said answer shall be verified under oath by the proper officer of said railroad and returned to commission at its offices within the time fixed by commission; the making of a false affidavit or filing of the same shall be deemed perjury and punishable as such under the statutes of Nevada defining perjury. *Stats. 1907, ch. 44, sec. 18 (a).*

Any officer, agent or employe of any railroad who shall wilfully fail or refuse to fill out and return any blanks as required by this act, or shall wilfully fail or refuse to answer any questions therein propounded, or shall knowingly or wilfully give a false answer to any such questions, or shall evade the answer to any such question where the fact inquired of is within his knowledge, or who shall upon proper demand, wilfully fail or refuse to exhibit
2998 to any commissioner or any commissioners, or any person authorized to examine the same, any book, paper or account of such railroad, which is in his possession or under his control, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 for each such offense, and a penalty of not less than \$500 nor more than \$1,000 shall be recovered from the railroad for each such offense when such officer, agent or employe acted in obedience to the direction, instruction or request of such railroad or any general officer thereof. *Same, sec. 27.*

Commission shall cause to be prepared suitable blanks for
2999 carrying out the purpose of this act, and shall, when necessary, furnish such blanks to each public utility. *Stats. 1911, ch. 162, sec. 7(a).*

Any officer, agent or employe of any public utility who shall wilfully fail or refuse to fill out and return any blanks as required by this act, or shall wilfully fail or refuse to answer any questions therein propounded, or shall knowingly or wilfully give a false
2990 answer to any such questions, or shall evade the answer to any such question where the fact inquired of is within his knowledge, or who shall upon proper demand wilfully fail or refuse to exhibit to any commissioner or any commissioners, or any person also authorized to examine the same, any book, paper or account of

such public utility which is in his possession or under his control shall be subject to the penalty prescribed in section 8 of this act. *Same, sec. 23.*

NEW YORK

See pars. 2884, 2896.

OHIO

Commission shall cause blanks to be prepared suitable for the purposes designated in this chapter which shall
2961 conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and, when necessary, furnish such blanks to each railroad. *Code 1910, sec. 556.*

A railroad receiving blanks from commission shall cause them to be properly filled, answering fully and correctly each question therein. In case it is unable to answer any question,
2962 such railroad shall give a good and sufficient reason therefor. Such answers shall be verified under oath by the proper officer of the railroad and returned to commission within the time fixed by it. The making or filing of a false affidavit shall be deemed perjury and punishable as such. *Same, sec. 557.*

Whoever, being an officer, agent or employe of a railroad company, wilfully fails or refuses to fill out and return a blank required by commission, or by law, or wilfully fails or refuses to answer a question therein propounded, or knowingly gives false answer to such question or evades the answer to it, if the fact inquired of is within his knowledge, or, upon proper demand, wilfully fails or refuses to exhibit a book, paper or account of such
2960 railroad, which is in his possession or under his control, to a member of commission or other person authorized to examine it, shall be fined not less than \$100 nor more than \$1,000, and a penalty of not less than \$500 nor more than \$1,000 shall be recovered from the railroad for each such offense when such officer, agent or employe acted in obedience to the direction, instruction or request of such railroad or a general officer thereof. *Same, sec. 570.*

See also par. 2908.

OREGON

Commission shall cause to be prepared suitable blanks for the purposes designated in this act, which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall, when necessary, furnish
2964 such blanks to each railroad. Any railroad receiving from commission any such blanks, shall cause the same to be properly filled out so as to answer fully and correctly each question therein

propounded, and in case it is unable to answer any question it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the proper officer of said railroad and returned to commission at its office within the time fixed by commission. *Gen. Laws 1907, ch. 53, sec. 40.*

Any officer, agent or employe of any railroad who shall fail or wilfully refuse to fill out and return any blanks as required by this act, or shall fail or refuse to answer any questions therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall evade the answer to any such question, where the fact inquired of is within his knowledge, or who shall, upon proper demand, fail or wilfully refuse to exhibit to commission or any commissioner, or any person authorized to examine the same, any book, paper or account of such railroad, which is in his possession or under his control, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 for each such offense; and a penalty of not less than \$500 nor more than \$1,000 shall be recovered from the railroad for each such offense when such officer, agent or employe acted in obedience to the direction, instruction or request of such railroad, or any general officer thereof. *Same, sec. 52.*

Commission shall cause to be prepared suitable blanks for reports for carrying out the purposes of this act, and shall, when necessary, furnish such blanks for reports to each public utility. *Gen. Laws 1911, ch. 279, sec. 13.*

Any public utility receiving from commission any blanks with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question, it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent or general manager of such public utility and returned to commission at its office within the period fixed by commission. *Same, sec. 40.*

Any officer, agent or employe of any public utility who shall fail or refuse to fill out and return any blanks as required by this act, or shall fail or refuse to answer any question therein propounded, or shall knowingly or wilfully give a false answer to any such question or shall evade the answer to any such question where the fact inquired of is within his knowledge or who shall, upon proper demand, fail or refuse to exhibit to commission or

any commissioner or any person authorized to examine the same, any book, paper, account, record, or memorandum of such public utility which is in his possession or under his control, or who shall fail to properly use and keep his system of accounting or any part thereof as prescribed by commission, or who shall refuse to do any act or thing in connection with such system of accounting when so directed by commission or its authorized representative, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$1,000 for each offense. A penalty of not less than \$500 nor more than \$1,000 shall be recovered from the public utility for each such offense when such officer, agent or employe acted in obedience to the direction, instruction or request of such public utility or any general officer thereof. *Same, sec. 68.*

SOUTH CAROLINA Commission shall, on or before June 1, in each year, furnish to the several railroads blank forms of such reports. *Gen. Stats. 1902, sec. 2075.*

TENNESSEE Commission shall cause to be prepared suitable blanks with such questions calculated to elicit all information concerning railroads, and as often as may be necessary, furnish said blanks to each railroad company. *Acts 1897, ch. 10, sec. 8.*

Each railroad company receiving from commission any such blanks shall cause the same to be properly filled out, so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure, and the said answer, duly sworn to by the proper officer of said company, shall be returned to commission at its office in Nashville within 30 days from the receipt of same. *Same.*

TEXAS Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads, and as often as it may be necessary furnish said blanks to each railroad company. Any railroad company receiving from commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officer of said company, shall be returned to commission at its

office in the city of Austin within 30 days from the receipt thereof. *Sayles' Civ. Stats. 1897, art. 4571.*

If any officer or employe of a railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such questions, where the fact inquired of is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor, and shall
2973 on conviction thereof be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid, a penalty of \$500, and commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its directions, permission or request in his failure, evasion or refusal. *Same, art. 4571(1).*

WISCONSIN Commission shall cause to be prepared suitable blanks for the purposes designated in this act, which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall, when necessary, furnish such blanks to each railroad. Any railroad receiving from
2974 commission any such blanks, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the proper officer of said railroad and returned to commission at its office within the time fixed by commission. *Laws 1905, ch. 362, sec. 1797-18(a).*

Any officer, agent or employe of any railroad who shall fail or wilfully refuse to fill out and return any blanks as required by this act, or shall fail or refuse to answer any questions therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall evade the answer to any such question, where the fact inquired of is within his knowledge, or who shall, upon proper demand, fail or wilfully refuse to exhibit to com-
2975 mission or any commissioner, or any person authorized to examine the same, any book, paper or account of such railroad, which is in his possession or under his control, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 for each such offense; and a penalty of not less than \$500 nor more than \$1,000 shall be recovered from the railroad for each such offense when such officer, agent or employe acted in obedi-

ence to the direction, instruction or request of such railroad or any general officer thereof. *Same, sec. 1797-26.*

Commission shall cause to be prepared suitable blanks for
2976 carrying out the purposes of this act, and shall, when necessary, furnish such blanks to each public utility. *Laws 1907, ch. 499, sec. 1797m-10.*

Any public utility receiving from commission any blanks with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any ques-
2977 tion, it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent or general manager of such public utility and returned to commission at its office within the period fixed by commission. *Same, sec. 1797m-42 (2).*

Any officer, agent or employe of any public utility or of any municipality constituting a public utility as defined by this act who shall fail or refuse to fill out and return any blanks as required by this act, or shall fail or refuse to answer any question therein propounded, or shall knowingly or wilfully give a false answer to any such question or shall evade the answer to any such question where the fact inquired of is within his knowledge or who shall, upon proper demand, fail or refuse to exhibit to commission
2978 or any commissioner or any person authorized to examine the same, any book, paper, account, record, or memoranda of such public utility which is in his possession or under his control or who shall fail to properly use and keep his system of accounting or any part thereof as prescribed by commission, or who shall refuse to do any act or thing in connection with such system of accounting when so directed by commission or its authorized representative, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$1,000 for each offense. *Same, sec. 1797m-94.*

And a penalty of not less than \$500 nor more than \$1,000 shall be recovered from the public utility for each offense when
2979 such officer, agent or employe acted in obedience to the direction, instruction or request of such public utility or any general officer thereof. *Same, sec. 1797m-94 (2).*

C. CONTENTS OF ANNUAL REPORTS OF UTILITIES AS PRESCRIBED BY STATUTE.

UNITED STATES Annual reports of common carriers and owners of railroads engaged in interstate commerce shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as commission may require. *Act to Regulate Commerce, sec. 20.*

ALABAMA Whether demand is made or not a railroad corporation other than a street railroad corporation shall include such information in its annual reports, namely: (1) the cost of right of way; (2) the cost of grading and roadbeds; (3) the cost of bridges; (4) the cost of rails and ties; (5) the cost of terminals and buildings; (6) the cost of equipment, engines, freight cars, passenger coaches, miscellaneous; (7) the cost of all other property and values in detail; (8) the amount paid for improvements, for what paid, and to what account charged; (9) the monthly revenues from passenger transportation; (10) the monthly revenues from freight transportation; (11) the monthly revenues from all other sources; (12) the monthly expenses of operating passenger trains; (13) the monthly expenses of operating freight trains; (14) the monthly expenses of operating mixed trains; (15) all other monthly expenses of operating railroad (beyond above items) including salaries, which are to be stated separately as are maintenance of way, and improvements; (16) tons of revenue freight, divided into products of agriculture, products of animals, products of mines, products of forests, manufacture, merchandise, miscellaneous, and fertilizers, carried from one

point within the state to another point within the state; (17) tons of revenue freight carried from points without the state to points within the state; (18) tons of revenue freight carried from points within the state to points without the state; (19) tons of revenue freight carried entirely through the state to destination beyond the state (tonnage under sub-divisions 17, 18 and 19 to be classified as in 16); (20) tons of company or dead-head freight carried under each of the conditions of sub-divisions 16, 17, 18 and 19; (21) the total revenue received from each of the classes of freight in sub-divisions 16, 17, 18 and 19; (22) the total number of ton-miles or miles one ton was carried in each of the classes of freight in sub-divisions 16, 17, 18, 19 and 20; (23) total number of revenue passengers carried from points and to points as named in sub-divisions 16, 17, 18 and 19; (24) total revenue from passenger transportation in each class as named in sub-division 23; (25) total passenger miles in each class as named in sub-division 23; (26) total number of dead-head or non-paying passengers in each of classes named in sub-division 23, and total number of dead-head passenger miles in each of such classes; (27) total number of passenger trains operated entirely within the state, total number of freight trains operated entirely within the state, and total number of mixed trains operated entirely within the state; (28) total tons of freight and total number of passengers both revenue and dead-head (freight and passenger and revenue and dead-head stated separately) carried on each class of train; (29) total revenue from freight and passengers, stated separately, each class of train, total revenue from all other sources; (30) total ton miles and total passenger miles in each class of train named in sub-division 27; (31) number of train miles and number of car miles for each class of train named in sub-division 27; (32) the cost of operation of each of the classes of trains named in sub-division 27, cost to include, separately, fuel, water, oil, engine wages, train wages, miscellaneous; (33) the total number of trains in the state (freight, passenger and mixed separately) which carry exclusively intrastate business; (34) furnish for these trains information as indicated in sub-divisions 28, 29, 30, 31 and 32. Provided that commission may waive the keeping and furnishing of any of the above facts in this section required to be kept and furnished. *Acts 1907, sp. sess., no. 17, sec. 4.*

ARKANSAS

See par. 2790.

FLORIDA

The annual report of a railroad, railroad company and common carrier shall specify: (1) the amount of capi-

tal stock subscribed, the number of shares, and the par value thereof; (2) the names of the owners of its stock, and the amount owned by them respectively, and the residence of each stockholder as far as known; (3) the amount of stock paid in and by whom; (4) the amount of assets and liabilities; (5) the names and places of residence of its officers; (6) the amount of funded or bonded debt; (7) the amount of floating debt; (8) the estimated value of the roadbed, including iron and bridges; (9) the estimated value of rolling stock; (10) the estimated value of stations and buildings; (11) the estimated value of other property; (12) the length of single track on main line; (13) the length of double track on main line; (14) the length of branches, stating whether they have double or single track; (15) the aggregate length of siding and other tracks above enumerated; (16) the number of tons of through freight carried during the year preceding the making of the report; (17) the number of tons of local freight carried during the same time; (18) the monthly earnings for the transportation of passengers during the same time; (19) the monthly earnings for the transportation of freight during the same time; (20) the amount of expenses incurred in running and management of passenger trains, in the running and management of freight trains and in the running and management of mixed trains during the same time; (21) the expenses incurred in the running and management of the road, including the salaries or compensation of general officers for the same time which shall be reported separately in detail; (22) the amount expended for repairs and removal of bridges, ties and iron; (23) the amount expended for other improvements not included in the last sub-division; (24) the amount expended for motive power, cars, stations, houses, and all other buildings and fixtures, including all other expenditures in the management and running of said road; (25) the rate of fare for passengers for each month during the same time; through and way passengers separately; (26) the tariff of freights, showing the changes of tariff, if any, during the same time; (27) a copy of each published rate of fare for passengers and tariffs of freights, issued for the government of its agents during the same time, and whether the rate of fare and tariff of freight in such published lists are the same as those actually received by the company, and if not, what were received; (28) what express companies run on its roads and on what terms and conditions, and the kind of business done by them; (29) what freight and transportation companies run

on its roads and on what terms, and whether such freight and transportation companies use the cars of the railroad company, or cars furnished by themselves; (30) whether the freight or cars of such transportation companies are given any preference in speed or order of transportation, and if so, what; (31) number of free passes issued during same time and to whom; (32) what running or traffic arrangements it has with other railroad companies; (33) what amount of land was granted them by the state and by the United States; how much of said land has already been actually conveyed by deed; how much land is still due them; how much land has been sold, and what has been the gross receipts from such sales of land since granted by the state and the United States; and answer such additional interrogatories as commission may make and propound to the said railroad and express companies and this section shall apply to the president, directors and general officers of every railroad and express company now existing, or which shall hereafter be organized and exist in this state, and to every lessee, manager, or operator of any railroad or express line within this state. *Gen. Stats. 1906, sec. 2906.*

ILLINOIS

The annual report of railroad company or other common carrier shall specify: (1) the names of the owners of its stock, and the amount owned by them, respectively, and the residence of each stockholder so far as known; (2) the amount of its assets and liabilities; (3) the names and place of residence of its officers; (4) the amount of funded debt; (5) the amount of floating debt; (6) the estimated value of the roadbed, including iron and bridges; (7) the estimated value of rolling stock; (8) the estimated value of stations, buildings and fixtures; (9) the estimated value of other property; (10) the length of single main track; (11) the length of double main track; (12) the length of branches, stating whether they have single or double track; (13) the aggregate length of siding and other tracks not above enumerated; (14) the number of miles run by passenger trains during the year preceding the making of the report; (15) the number of miles run by freight trains during the same period; (16) the number of tons of through freight carried during the same time; (17) the number of tons of local freight carried during the same time; (18) the amount of expenses incurred in the running and management of passenger trains during the same time; (19) the amount of expenses incurred in the running and management of freight trains during the same time; also the

amount of expense incurred in the running and management of mixed trains during the same time ; (20) all other expenses incurred in the running and management of the road during the same time, including the salaries of officers, which shall be reported separately ; (21) the amount expended for repairs of road and maintenance of way, including repairs and renewal of bridges and renewal of iron ; (22) the amount expended for improvement, and whether the same is estimated as a part of the expenses of operating or repairing the road, and, if either, which ; (23) the amount expended for motive power and cars ; (24) the amount expended for station houses, buildings and fixtures ; (25) all other expenses for the maintenance of way ; (26) all other expenditures, either for management of road, maintenance of way, motive power and cars, or for other purposes ; (27) the rate of fare for passengers during same time, through and way passengers separately ; (28) the tariff of freights, showing each change of tariff during the same time, copies of such tariffs to be filed with commission at date of issue ; (29) a copy of each published rate of fare for passengers and tariff of freight, in force or issued for the government of its agents during the same time, copies of such tariffs to be filed with commission at date of issue ; (30) whether the rate of fare and tariff of freight in such published lists are the same as those actually received by the company during the same time ; if not, what were received ; (31) what express companies run on its road, and on what terms and on what conditions ; the kind of business done by them, and whether they take their freights at the depots or at the office of such express companies ; (32) what freight and transportation companies run on its road, and on what terms ; (33) whether such freight and transportation companies use the cars of the road or the cars furnished by themselves ; (34) whether the freight cars of such companies are given any preference in speed or order of transportation and if so, in what particular ; (35) what running arrangements it has with other railroad companies, setting forth the contracts for the same. *Revisal 1909, ch. 114, sec. 172.*

IOWA

Annual reports of common carriers shall show in detail the amount of capital stock issued, the amounts paid therefor, and manner of payment ; the dividends paid ; surplus fund, if any ; number of stockholders ; the funded and floating debts and the interest paid thereon ; the cost and value of the carrier's property, franchises and equipment ; the number of

locomotive engines and cars used in the state, and the number supplied with automatic safety couplers, and the kind and number of brakes used, and the number of each; the number of employes and the salaries paid each class; and the amounts expended for improvements each year, how and where expended and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balance of profit and loss, and a complete exhibit of the financial operations thereof each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements or contracts with other carriers, and other statistics of the road and its transportation, as commission may require. *Code 1897, sec. 2143.*

KANSAS

The annual report of a common carrier or a public utility shall show in detail the amount of the capital stock issued, the amount paid therefor, and the manner of payment for same; the dividends paid; the surplus fund, if any, and the number of stockholders; the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises and equipment; the number of employes and the salaries paid each class; the accidents to passengers, employes and other persons, and the causes thereof; the amounts expended for improvement each year, how expended, and the character of such improvements; the earnings and receipts from each branch of the business and from all sources; the operating and other expenses; the balance of profit and loss, and a complete exhibit of the financial operations of such common carrier and public utility, each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates and regulations concerning fares, freights, agreements, arrangements and contracts affecting the same, as the commission may require. *Laws 1911, ch. 238, sec. 24.*

KENTUCKY

The annual report of a railroad shall specify: (1) the amount of capital stock paid up, and the names of the owners thereof, and amounts owned by each, and the residence of each stockholder as far as known; (2) the amount of its assets and liabilities; (3) the names and places of residence of its general officers; (4) the amount of cash paid to the company on account of the original capital stock; (5) the amount of the funded debt; (6) the amount of floating debt; (7) the estimated value of the

thereof; commission may also cause to be printed for early distribution its annual reports. *Same.*

Commission shall on or before December 1, in each year, make a report which shall be transmitted to Congress and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and **2030** data collected by commission as may be considered of value in the determination of questions connected with the regulation of commerce together with such recommendations as to additional legislation relating thereto as commission may deem necessary, and the names and compensation of the persons employed by commission. *Same, sec. 21.*

See also par. 2616.

ALABAMA On or before October 10, of each year, commission through the president thereof shall make to the governor for transmission to the legislature a report of its acts and doings for the year ending June 30, next preceding, setting forth such **2031** facts as will disclose the actual workings of the transportation system of this state and make such suggestions as to it may seem appropriate and for the best interests of the state. Such reports may be made public immediately upon the filing with the governor. *Code 1907, sec. 5645.*

ARIZONA Commission shall make and submit to the governor on or before December 1, of each year, a report containing a full and complete account of its transactions and **2032** proceedings for the preceding fiscal year, together with such other facts, suggestions, and recommendations as it may deem of value to the people of the state. *Sess. Laws 1912, ch. 90, sec. 12.*

ARKANSAS Commission shall make and submit to the governor annual reports, containing a full and complete account of the transactions of its office together with the information **2033** gathered by commission as herein required and such other facts, suggestions and recommendations as may be by it deemed necessary, which report shall be published as the reports of the heads of departments. *Kirby's Digest 1904, sec. 6824.*

See also par. 619.

CALIFORNIA Identical with par. 3032. *Stats. 1911, 1st. ex. 2034 sess., ch. 14, sec. 12.*

COLORADO Whenever investigations shall be made by commission, it shall make a report in writing in respect thereto,

2035 which shall state the conclusions of commission, together with its decision, order or requirement in the premises. *Laws 1910, sp. sess., ch. 5, sec. 14.*

2036 Also a provision identical with par. 3029.¹ *Same.*

CONNECTICUT Commission shall render on or before December 1, in each year a report to the governor stating the general conduct and financial condition of all public service companies as ascertained by commission from returns of the companies and
2037 examinations by commission, together with such other facts and recommendations as in opinion of commission will increase the public safety or be for the public interest, together with its reasons for such recommendations. *Pub. Acts 1911, ch. 128, sec. 28.*

-- *See also par. 2549.*

FLORIDA Commission shall by March 1, in every year make to the governor annual reports of all transactions of its
2038 office including an itemized statement of penalties imposed and fines collected, and recommend from time to time such legislation as it may deem advisable. *Gen. Stats. 1906, sec. 2915.*

See also par. 2799.

GEORGIA Commission shall make to the governor annual reports of the transactions of its office, and recommend
2039 from time to time such legislation as it may deem advisable. *Code 1911, sec. 2644.*

ILLINOIS Commission shall on or before December 1, of each year, or oftener if required by the governor to do so, make a report to the governor of its doings for the preceding year, containing such facts, statements and explanations as will disclose the actual workings of the system of transportation of persons or property by common carriers within this state and of the warehouse business in their bearings upon the business and prosperity
2040 of the people of the state, and such suggestions in relation thereto as to it may seem appropriate, and particularly *first*, whether in its judgment the railroads can be classified in regard to rate of fare and freight to be charged upon them, and if so, in what manner; *second*, whether a classification of freight can also be made, and if so, in what manner. It shall also at such times as the governor shall direct examine any particular subject connected with the condition and management of railroads, other

¹ "All courts of the United States and of the several states" reads "all courts of this state."

commission all information required by it concerning the condition, operation and management of such railroad, and the
3021 condition of its roadbeds, bridges and equipment. Commission shall not, unless required by law, give publicity to such information as may be obtained by it under the provisions of this chapter, except so far as it may be necessary in reports to the general assembly or in judicial proceedings. *Pub. Stats. 1906, 4606.*

A person or corporation operating a railroad in the state that refuses commission access to the books, accounts or papers of such railroad so far as may be necessary under the provisions of this chapter, or fails or refuses to furnish any returns, reports, or information lawfully required by commission, or wilfully hinders, delays or obstructs commission in the discharge of the
3022 duties imposed upon it, or fails within a reasonable time to obey a final order or decree of commission, shall be fined not more than \$5,000 nor less than \$500 with costs. A person who knowingly, under oath, makes a false return or statement, or who knowingly, under oath, when required by law, gives false information to commission; or who knowingly testifies falsely in any material matter before commission, shall be deemed to have committed perjury and shall be punished accordingly. *Same, sec. 4607.*

A company owning or operating a plant, line or property, subject to supervision under this act shall, at all times, on request, furnish commission all information required by it concerning the condition, operation, management, expense of maintenance and
3023 operation, cost of production, rates charged for service or for products, contracts, obligations and financial standing of such company. Commission shall not, unless required by law, give publicity to such information so obtained by it, except as it may be necessary in reports to the general assembly, or in judicial proceedings. *Laws 1908, no. 116, sec. 5.*

A company operating a plant or line subject to supervision under this act, that refuses commission access to its books, accounts or papers, so far as may be necessary under the provisions of this act, or fails or refuses to furnish any returns, reports or information lawfully required by commission, or wilfully hinders, delays or obstructs commission in the discharge of the
3024 duties imposed upon it, or fails, within a reasonable time to obey a final order or decree of commission, shall be fined not more than \$5,000 nor less than \$500. A person who knowingly, under oath, makes a false return or statement, or who knowingly, under oath, when required by law, gives false information

to commission, or who knowingly testifies falsely in any material matter before commission, shall be deemed to have committed perjury, and shall be punished accordingly. *Same, sec. 6.*

VIRGINIA

Every railroad company or person operating a railroad in this state shall, at all times, on request, furnish to commission any information required by it, concerning the physical condition, management, or operation of its road, and particularly with copies of all of its time tables upon its road and other roads with which its business is connected; and any railroad refusing or failing to furnish any such information to commission shall, in the discretion of commission, be fined not less than \$10 nor more than \$1,000. *Pollard's Code 1904, sec. 1294d(69).*

Commission may require all such corporations¹ to furnish such reports to commission as may be provided by the constitution, or by law. *Same, sec. 1313a(16).*

WISCONSIN

Identical with pars. 3015, 3016, 3017. *Laws 1907, ch. 499, secs. 1797m-18, 1797m-42(1), 1797m-42(3).*
See also par. 715.

E. DUTY OF COMMISSION TO SUBMIT REPORTS, AS PRESCRIBED, WITH REGARD TO THE BUSINESS AND MANAGEMENT OF PUBLIC UTILITIES AND TO MAKE RECOMMENDATIONS WITH RESPECT THERETO.

UNITED STATES Whenever an investigation shall be made by commission, it shall make a report in writing in respect thereto, which shall state the conclusions of commission, together with its decision, order or requirement in the premises; and in case damages are awarded, such report shall include the findings of fact on which the award is made. *Act to Regulate Commerce, sec. 14.*

Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of commission therein contained in all courts of the United States and of the several states without any further proof or authentication

¹ Corporations chartered under the laws of this state and all foreign corporations.

a part thereof to be copied for its information or for the information of the stockholders of such corporation or company. *Same, sec. 17.*

Every person, firm, association or corporation doing an express business upon a railroad or railway in this commonwealth shall, upon request, furnish to commission full information relative to the character or conduct of such business, the service that is furnished and the rates that are charged, the names of the persons engaged in the business, and the relations existing with any other person, firm, association or corporation conducting a transportation or express business upon a railroad or railway. *Acts 1908, ch. 599, sec. 3.*

Companies hereinbefore described shall hereafter furnish from time to time to gas and electric commission such information as commission may require. *Acts 1908, ch. 617, sec. 2.*

MISSISSIPPI Commission shall demand and require all proper information from railroads, express, telephone, telegraph, and sleeping car companies to enable its members to intelligently discharge their duties; and to require the same of all steamboats and other carriers, for statistical purposes. They shall furnish commission with all information required relating to the business of each, and the management, income, receipts, expenses, and expenditures thereof; and with copies of all leases, contracts, and agreements for transportation with each other. *Code 1906, sec. 4848.*

See also pars. 292, 293, 294.

NEBRASKA *See pars. 648, 649, 650, 651.*

OHIO Each public utility shall furnish to commission in such form and at such times as commission may require such accounts, reports and information as shall show completely and in detail the entire operation of the public utility in furnishing the unit of its product or service to the public. *Laws 1911, no. 325, sec. 37.*

OREGON Each public utility shall furnish to commission in such form and at such times as commission shall require, such accounts, reports and information as shall show in itemized detail: (1) the depreciation per unit; (2) the salaries and wages separately per unit; (3) legal expenses per unit; (4) taxes and rentals separately per unit; (5) the quantity and value of material used per unit; (6) the receipts from residuals, by-products,

3015 services or other sales separately per unit; (7) the total and net cost per unit; (8) the gross and net profit per unit; (9) the dividends and interest per unit; (10) the surplus or reserve per unit; (11) the prices per unit paid by consumers; and in addition such other items, whether of a nature similar to those hereinbefore enumerated or otherwise, as commission may prescribe in order to show completely and in detail the entire operation of the public utility in furnishing the unit of its product or service to the public. *Gen. Laws 1911, ch. 279, sec. 19.*

Every public utility shall furnish to commission all information required by it to carry into effect the provisions of this act
3016 and shall make specific answers to all questions submitted by commission. *Same, sec. 40.*

Whenever required by commission, every public utility shall deliver to commission any or all maps, profiles, contracts, reports of engineers, and all documents, books, accounts, papers
3017 and records or copies of any or all of the same, with a complete inventory of all its property, in such form as commission may direct. *Same.*

See also par. 676.

PENNSYLVANIA Every common carrier shall, on request, furnish commission any necessary information required by commission concerning the rates of freight, for transporting freight
3018 and passengers upon its road and other roads with which its business is connected, and the condition, management, and operation of its road. *Laws 1907, no. 250, sec. 19.*

SOUTH CAROLINA Every railroad corporation shall, at all times, on request, furnish commission any information required by it concerning the condition, management and operation of its rail-
3019 roads, and particularly with copies of time tables, and also with the rates of transporting freight and passengers upon its road and other roads with which its business is connected. *Gen. Stats. 1902, sec. 2072.*

Commission shall further have, at all times, access to the list of stockholders of every corporation operating a railroad,
3020 and may, in its discretion, at any time, cause the same to be copied, in whole or in part, for its own information or for the information of persons owning stock in such corporation. *Same, sec. 2081.*

VERMONT A person or corporation owning or operating a railroad in this state shall, at all times, upon request, furnish

state the sum of \$100 for each and every day it shall continue to be in default with respect to such abstract or list of vouchers or receipts and such copy of particular vouchers or receipts demanded. Such forfeiture shall be recovered in an action brought by commission in the name of the state in the circuit court or court of like jurisdiction of Montgomery county, and the amount recovered in such action shall be paid into the state treasury and credited to the general fund. *Acts 1907, sp. sess., no. 17, sec. 7.*

ARIZONA

All public service corporations and corporations whose stock shall be offered for sale to the public shall make
3001 such reports to commission, under oath, and provide such information concerning their acts and operations as may be required by law, or by commission. *Const., art. xv, sec. 13.*

Every public service corporation shall furnish to commission in such form and such detail as commission shall prescribe all
3002 tabulations, computations and all other information required by it to carry into effect any of the provisions of this act, and shall make specific answers to all questions submitted by commission. *Sess. Laws 1912, ch. 90, sec. 28.*

Whenever required by commission, every public service corporation shall deliver to commission copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, ac-
3003 counts, papers and records in its possession, or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as commission may direct. *Same, sec. 28(c).*

See also par. 607.

ARKANSAS

Every person or corporation operating a railroad or express company having an agent or office in the state shall, upon notice to do so, furnish commission with all information required to enable commission to perform its duties relative to the management of their respective lines and connecting lines,
3004 and particularly with copies of all leases, contracts and agreements with other lines, express companies or sleeping car companies, and shall furnish all such information as to the number of persons employed in the different departments of their service and the wages paid the same, as commission may require. *Kirby's Digest, sec. 6811.*

CALIFORNIA

Provisions for public utilities identical with
3005 pars. 3002, 3003. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 28(a), 28(c).*

See also par. 620.

KANSAS

Each public utility shall furnish to commission, in such form and at such time as commission shall require, such accounts, reports and information as shown in itemized detail; (1) the depreciation per unit; (2) the salaries and wages, separately, per unit; (3) legal expenses per unit; (4) taxes and rentals, separately, per unit; (5) the quantity and value of material used per unit; (6) the receipts from residuals, by-products, serv-
3006 ices or other sales, separately, per unit; (7) the total and net cost per unit; (8) the gross and net profit per unit; (9) the dividends and interest per unit; (10) surplus or reserve per unit; (11) the prices per unit paid by consumers; and, in addition, such other items, whether of a nature similar to those hereinbefore enumerated or otherwise as commission may prescribe in order to show completely and in detail either the operation of the public utility or common carrier in furnishing the unit of its product or service to the public. *Laws 1911, ch. 238, sec. 23.*

MAINE

See pars. 2445, 2577; 2578.

MARYLAND

See pars. 631, 633.

MASSACHUSETTS

Every corporation and company engaged in the manufacture and sale of gas or electricity for light or heat shall at all times, upon request, furnish any information required
3007 by commission relative to its condition, management and operation, and shall comply with all lawful orders of commission. *Rev. Laws 1902, ch. 121, sec. 31.¹*

In addition to the annual return required by section eight, every such company shall at times, upon request, furnish to commission any information required by commission concerning
3008 the condition, management and operation of its business, or concerning its rates or the facilities afforded by it to the public therein, and shall comply with all lawful orders of commission, and commission may at all reasonable times have access to the books of such company. *Acts 1906, ch. 433, sec. 10.*

Every railroad corporation and street railway company shall, upon request, furnish to commission any information which may
3009 be required by it relative to the condition, management and operation of the railroad or railway. *Acts 1906, ch. 463, pt. iii, sec. 13.*

Commission shall at all times have access to the list of stockholders of every corporation or company which operates a
3010 railroad or railway, and may at any time cause the said list or

¹ See footnote 1, par 276.

earnings and receipts from each branch of business, and from all
2997 sources, the operating and other expenses; the balance of profit
and loss, and a complete exhibit of the financial operations of the
carrier each year, including an annual balance sheet, and copies
of all reports made by any station agent or other agent of said
common carrier in the state to the auditor of said corporation.
Such reports shall also contain such information in relation to
rates or regulations, concerning fares or freights or agreements,
arrangements or contracts with other common carriers as com-
mission may require. Such reports shall also contain such other
statistics of the carrier and of its transportation business for the
year ending upon June 30 of each year, as commission shall re-
quire. *Sess. Laws 1911, ch. 207, sec. 24.*

See also par. 2924.

WASHINGTON The annual report of a public service company
shall show in detail the amount of capital stock issued, the
amounts paid therefor and the manner of payment for same, the
dividends paid, the surplus fund, if any, and the number of
stockholders, the funded and floating debts and the interest paid
thereon, the cost and value of the company's property, fran-
chises and equipment, the number of employes and the salaries
paid each class, the accidents to passengers, employes and other
persons and the cost thereof, the amounts expended for im-
provements each year, how expended and the character of such
improvements, the earnings or receipts from each franchise or
business and from all sources, the proportion thereof earned from
2998 business moving wholly within the state and the proportion
earned from interstate traffic, the nature of the traffic movement
showing the percentage of the ton miles each class of commodity
bears to the total ton mileage, the operating and other expenses
and the proportion of such expense incurred in transacting busi-
ness wholly within the state, and the proportion incurred in
transacting interstate business, such division to be shown ac-
cording to such rules of division as commission may prescribe,
the balances of profit and loss, and a complete exhibit of the
financial operations of the carrier each year, including an annual
balance sheet. Such report shall also contain such information
in relation to rates, charges or regulations concerning fares,
charges or freights, or agreements, arrangements or contracts
affecting the same, as commission may require. *Laws 1911, ch.*
117, sec. 78.

VIRGINIA

See par. 2933.

D. DUTY OF UTILITIES TO FURNISH GENERAL INFORMATION TO COMMISSION AND AUTHORITY OF COMMISSION TO CALL FOR SUCH INFORMATION.

ALABAMA

The managers of railroads shall furnish commission with all information required by it relative to the management of their respective lines, and with copies of all leases, contracts, and agreements made by them with express, sleeping car, or other companies to which they are parties, or affecting such lines, and commission shall have, at all times, access to the list of stockholders of every corporation operating a railroad in this state, and it may, at any time, cause the same to be copied, or any part thereof, for its own information or for the information of persons owning stock in such corporation. *Code 1907, sec. 5664.*

Every railroad and street railroad corporation shall keep an abstract or list showing the facts hereinafter provided, of every receipt or voucher or other record or instrument, evidencing the payment of money by the corporation, and to file with commission on or before the last day of each month an abstract or list of all such vouchers or receipts, covering all disbursements for the month preceding. Such abstract or list to be filed with commission, shall be sworn to by the auditor or comptroller of the corporation, or such other officer as may be designated by commission and shall show the following facts with respect to each receipt or voucher: (1) the number; (2) the date; (3) the amount; (4) to whom paid; (5) for what purpose expended; (6) to what account charged. When commission makes demand for the same it shall be the duty of such corporation, within the time specified in the demand, to furnish to commission a copy of any particular voucher or receipt, together with all indorsements thereon, verified by the affidavit of the person making said copy. The time for filing such abstract of vouchers or receipts may be extended by commission for a period not exceeding 15 days. If any such corporation shall fail to make and file said abstracts or lists of vouchers or receipts within the time above specified or within the time as extended by commission, or shall fail to furnish commission with a sworn copy of any particular voucher or receipt when demanded as aforesaid and within the time specified in the demand, such corporation shall forfeit to the

of freight and the monthly earnings for the transportation of passengers on each main line and branch line; (15) the amount of expenses incurred in running passenger trains on each main line and branch line and the amount of expense incurred in running freight and mixed trains on each main line and branch line; (16) the expense incurred in the management of the road, including the compensation of general officers, which shall be reported itemized in detail; (17) the amount expended for repairs, including maintenance of roadbed, repairs, and renewals of bridges, ties, iron and the amount expended for other improvements not included in the previous enumeration; (18) the amount expended for motive power, cars, station and warehouses, shops, repairs upon cars and locomotives and all other expenses of the operating department; (19) if a railroad, what express companies run on its road and on what terms and conditions and the kind of business done by the express company; (20) the number of free passes or free tickets, and franks issued, and to whom and what relation the recipient bears to the road; (21) what operating or traffic arrangement it has with other companies, attaching a copy of any contract or contracts for such arrangements; (22) what amount of land was granted to the company, or its assignors, immediate or remote; by the state or United States; how much of said land has been conveyed by deed and the amount realized from the sale thereof and how much of said land is now held; (23) the amount received by the company, or its assignors, immediate or remote; from municipalities or other sources as a bonus or to aid in the building of any railroad; (24) the number of employes killed and the number of employes injured by accident, and the cause or causes of such accidents; (25) the number of other persons killed or injured by accident, and the causes of such accident; (26) an itemized statement of the amount of all damage paid on account of injuries to or the death of persons by reasons of accidents, stating in separate items the amounts paid on account of inquiries or the death of employes, passengers and other persons; (27) such other information as may be required by commission. *Cobbey's Annot. Stats. 1909, sec. 10657.*

NEW YORK

The annual report of a gas or electric corporation shall show in detail: (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during

the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by commission. *Laws 1910, ch. 480, sec. 66(6).*

OREGON

The annual report of a railroad shall show in detail the amount of capital stock issued; the amount and manner of payment therefor; the dividends paid, the surplus fund, if any; the number of stockholders, the funded and floating debts, and the interest paid or due thereon; the cost and value of all the railroad's property, franchises and equipments; the number of employees and officers, and the salary and wages paid each class; the amounts expended for improvements, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all other sources; the operating and other expenses; the balance of profit or loss; and a complete exhibit of the financial operations of the year, with an annual balance sheet, the amount of land received as grants from the state and from the United States; the amount of land sold and the average price received per acre; the amount unsold and its average appraised value per acre; information in regard to rates and regulations concerning fares and freights; agreements, arrangements, or contracts with express, telegraph, sleeping and dining car companies, fast freight lines and other railroads and common carriers, and such other matters as commission may require. *Gen. Laws 1907, ch. 53, sec. 40.*

SOUTH DAKOTA

The annual report of a common carrier shall show in detail the amount of the capital stock issued, the amounts paid therefor, and the manner of the payment of the same; the dividends paid; the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipments, and the actual cost per mile in building the road or line; the number of employees, and the salaries paid each class; the amounts expended for improvements each year, how and where expended, and the character of such improvements; the

the amount of its authorized capital and its indebtedness and financial condition, on such date or dates as commission may designate. *Acts 1906, ch. 433, sec. 8.*

MICHIGAN

The annual report of a union station and depot company¹ shall specify; (1) the amount of capital stock subscribed and by whom; (2) the names of the owners of its stock, the amounts owned by them respectively and the residence of each stockholder so far as known; (3) the amount of stock paid in and by whom; (4) the amount of its assets and liabilities; (5) the names and places of residence of its officers; (6) the amount of cash paid to the corporation on account of the original capital stock; (7) the amount of funded debt; (8) the amount of floating debt; (9) the cost of its real estate, including rights of way for tracks; (10) the cost of depots, buildings and fixtures; (11) the cost of all other property; (12) the length of single main track; (13) the length of double main track; (14) the aggregate length of
2991 sidings and other tracks not above enumerated; (15) its monthly earnings from all sources respectively during the year; (16) the amount of expense incurred in operating its business and maintaining its property during the year; (17) all other expenses incurred by it, including the salaries of officers, which shall be reported separately; (18) the amount expended for repairs and extension of tracks, including repairs and renewal of bridges and renewal of iron during the year; (19) the amount expended for improvements during the year; (20) the amount expended for depot, station houses, buildings, and fixtures during the year; (21) all other expenses during the year; (22) what arrangements it has with other railroad corporations for use of its depot and other property, setting forth the contract for the same. *Comp. Laws 1897, sec. 6372.*

Commission may make and propound to such corporations such other or additional interrogatories as in its judgment may
2992 be necessary, in order to gain full information in regard to the business of said corporations and the management thereof. *Same, sec. 6373.*

MINNESOTA

The annual report of a carrier shall show in detail the amount of capital stock issued; the amount and manner of payment therefor; the dividends paid; the surplus fund, if any; the number of stockholders; the funded and floating debts, and the interest paid or due thereon; the cost and value of all the carrier's property, franchises and equipments; the num-

¹ See note 1, par. 2850.

ber of employes and officers, and the salary or wages paid each class; the amounts expended for improvements, how expended and the character of such improvements; the earnings and receipts from each branch of business and from all other sources; 1993 the operating and other expenses; the balance of profit or loss; and a complete exhibit of the financial operations of the year, with an annual balance sheet, the amount of land received as grants from the state and from the United States; the amount of such land sold and the average price per acre; the amount unsold and its average appraised value per acre; information in regard to rates and regulations concerning fares and freights; agreements, arrangements, or contracts with express, telegraph, sleeping and dining car companies, fast freight lines, and other common carriers, with copies of such contracts, agreements or arrangements; and such other matters as commission may require. *Rev. Laws 1905, sec. 1984.*

NEBRASKA

The annual report of a common carrier shall show: (1) the amount of the capital stock subscribed, the number of shares and the par value of the same; (2) the names of the owners of its stock and the amount owned by them respectively; (3) the amount paid into the treasury of the common carrier for and on account of the issuance of the stock, the dates of such payments and by whom paid; (4) the amount of outstanding bonds of the company, the date and purpose of their issuance, and the rate of interest thereon; (5) the names and places of residence of the officers of the company, with the amount of the annual salary of each; (6) the amount of the floating debt of the company, with the purpose for which the debt was incurred; (7) the value of the roadbed, including iron and bridges, the value of rolling stock, stations, buildings, locomotives and all other property; (8) the length of single track on the main line and the length of double track on the main line; (9) the length of branch lines, stating whether they are double or single track; (10) the aggregate length of side tracks, spurs, switches and terminals on or connected with each main line or branch line; (11) the number of tons of through freight carried during the year preceding the making of the report and the number of tons of local freight carried during the same time; (12) the number of tons of freight carried on each main line designating in separate items, the local and through freight; (13) the number of tons of freight carried on each branch line, designating in separate items the local and through freight; (14) the monthly earnings for the transportation

roadbed, including iron and bridges; (8) the estimated value of rolling stock; (9) the estimated value of stations, buildings, and fixtures; (10) the estimated value other property; (11) the length of single main track; (12) the length of double main track; (13) the length of branches stating length of single and of double track; (14) the aggregate length of siding and other tracks not above enumerated; (15) the number of miles run by passenger trains during the year preceding the making of the report; (16) the number of miles run by freight trains during the same period; (17) the number of tons of through freight carried, and the number of tons of local freight during the same period; (18) the monthly earnings for the transportation of passengers during the same time; (19) the monthly earnings for the transportation of freight during the same time; (20) the monthly earnings from all other sources respectively; (21) the amount of expenses incurred in running of passenger trains during the same time; (22) the expense incurred in running freight trains, and in running mixed trains during the same time; (23) all other expenses incurred in the management of the road, including the salaries of the officers, which shall be reported separately; (24) the amount expended for repairs of the road and maintenance of way, including repairs and renewals of bridges and renewals of iron; (25) the amount expended for improvements, and whether the same is estimated as a part of the expenses of operating or repairing the road; and if either, which? (26) the amount expended for motive power and cars; (27) the amount expended for station houses, buildings and fixtures; (28) all other expenses for maintenance of way; (29) all other expenses for other purposes; (30) the number of tons of freight carried one mile; (31) the amount received per ton per mile; (32) the average distance each ton was hauled, and the average cost of hauling a ton of freight one mile; (33) what freight and transportation companies run on its road, and on what terms, and whether such transportation companies use the cars of the railroad company, or cars furnished by themselves; (34) whether the freight or cars of such transportation companies are given any preference in speed or order of transportation; and, if so, in what particular? Commission may propound any additional interrogatories, which shall be answered by such company in the same manner as those specified in the foregoing section. *Wheeler's Stats. 1909, sec. 5409.*

MARYLAND

The annual report of a gas or electric company shall show in detail; (1) the amount of its authorized capital

stock and the amount thereof issued and outstanding; (2) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (3) its receipts and expenditures during the preceding year; (4) the amount paid as dividends upon its stock and as interest upon its bonds; (5) the names and amounts paid as salary to each officer, and the amounts paid as wages to its employes; (6) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (7) such other facts pertaining to the operating and maintenance of the plant and system and the affairs of such person or corporation as may be required by commission. *Laws 1910, ch. 180, sec. 31³/₄.*

The annual report of a telephone or a telegraph company shall show in detail: (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bond and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the name of and the amount paid as salary to each officer, and the amount paid as wages to its employes; (f) the situation of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation, as may be required by commission. *Same, sec. 39.*

MASSACHUSETTS The annual report of a gas or electric corporation shall contain: the amount of its authorized capital, its indebtedness and financial condition on June 30 preceding, its income and expenses during the preceding year, its dividends paid out and declared, a list of the names of all its salaried officers, and the amount of the annual salary paid to each, and the balance sheet of its accounts as of said preceding June 30. *Rev. Laws 1902, ch. 121, sec. 31.¹*

The annual report of a company engaged in the business of the transmission of intelligence by electricity shall include a statement of its business, receipts and expenditures within the commonwealth during the year, its dividends paid out and declared,

¹ See footnote 1, par. 276.

CHAPTER XI

Franchises

SCOPE NOTE

This chapter includes grants of power authorizing commissions to regulate competition between utilities by requiring certificates of convenience and necessity to be issued by commissions as a condition precedent to the acquisition of new franchise privileges or to the exercise of franchise privileges previously granted. It also includes the Wisconsin law on indeterminate franchises. Provisions of general corporation law defining the franchise rights of utilities and prescribing the procedure to be followed in their exercise have been excluded. For provisions incidentally involving questions of franchise, see ch. xii, on stock and bond issues, and ch. xiii, on intercorporate relations. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. CERTIFICATES OF CONVENIENCE AND NECESSITY.

1. *New Undertakings or Extensions of Existing Undertakings.*

ARIZONA, CALIFORNIA

No street railroad corporation, gas, electrical, telephone or water corporation shall henceforth begin the construction of a street railroad, or of a line, plant or system or of any
3087 extension of such street railroad, or line, plant or system without having first obtained from commission a certificate that the present or future public convenience and necessity require or will require such construction. *Ariz.—Sess. Laws 1912, ch. 90, sec. 50(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 50(a).*

This section shall not be construed to require any such corporation to secure such certificate for an extension within any city and county or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into
3088 territory either within or without a city and county or city or town, contiguous to its street railroad, or line, plant or system and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. *Same.*

If any public utility in constructing or extending its line, plant or system shall interfere or be about to interfere with the operation of the line, plant or system of any other public utility,
3089 already constructed, commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants or systems affected as to it may seem just and reasonable. *Same.*

CONNECTICUT

No street railway shall be built or extended from one town to another in the highway so as to parallel any other street railway or any railroad unless authorized by special charter prior to January 1, 1893, or by the superior court or a judge thereof, after an application and finding in the manner hereinafter provided, that public convenience and necessity require the building of such railway, nor shall any street railway be built or extended under the provisions of any charter or amendment of a charter granted after the close of the session of the general assembly in 1897, so as to parallel any other street

sary, which report shall be published as the reports of the heads of departments. *Sayles' Civ. Stats. 1897, art. 4571(2).*

See also pars. 685, 686, 2210.

VERMONT

Commission shall biennially report to the general assembly, giving its proceedings under this chapter, and include therein such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions in respect thereto, or to the condition, affairs or conduct of any of such railroads, or the general railroad policy of the state, or the amendment of its laws, or any new legislation, as it deems appropriate, also statements showing the receipts and expenditures of each railroad in this state for the two preceding years, from what source such receipts were derived, and for what such expenditures were made, also the condition of each road and its equipment, and such other matters as commission deems appropriate and important for the information of the general assembly. *Pub. Stats. 1906, sec. 4614.*

The report required to be made by commission under section 4614 of the public statutes relating to railroads, shall include the report of commission under this act, to be of the same general scope and character as required in case of railroads. *Laws 1908, no. 116, sec. 15.*

See also pars. 2215, 3021.

VIRGINIA

Commission shall make annual reports to the governor of its proceedings, in which reports it shall recommend, from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation or control of corporations, or to the subject of taxation, as it may deem wise or expedient, or as may be required by law. *Const., sec. 156(i).*

Commission shall, annually, on January 1, publish a compilation of the statute laws governing common carriers together with a compilation of the rules and regulations prescribed for their government by commission, and shall furnish a sufficient number of copies to each railroad company or transportation company, or persons operating the same, to enable such company or person operating the same to post and keep posted conspicuously in every passenger and freight depot of the company a copy of such laws, rules and regulations; and every such company, or person operating the same, is hereby required to

see that such copies, when furnished by commission, are posted and kept posted in the manner prescribed. *Pollard's Code 1904, sec. 1313a(41)*.¹

WASHINGTON Commission shall make and submit to the governor an annual report containing full and complete accounts of the transactions and proceedings of its office, together with
3089 the information gathered by commission as herein required, and such other facts, suggestions and recommendations as may be by it deemed necessary, which report shall be published as the reports of the heads of departments. *Laws 1911, ch. 117, sec. 6.*

WISCONSIN Commission shall publish annual reports showing its proceedings and showing in tabular form the details per
3084 unit as provided in section 1797m-18 for all the public utilities of each kind in the state, and such monthly or occasional report, as it may deem advisable. *Laws 1907, ch. 499, sec. 1797m-19(1).*

Commission shall also publish in its annual reports the value of all the property actually used and useful for the convenience of the public and the value of the physical property actually
3088 used and useful for the convenience of the public, of every public utility as to whose rates, charges, service or regulations and hearing has been held by commission under section 1797m-45 and 1797m-46 or the value of whose property has been ascertained by it under section 1797m-5. *Same, sec. 1797m-19(2).*

Commission is hereby authorized to print and publish for distribution in * * * volumes of convenient size, bound in buckram, or other substantial material, its opinions and decisions, which shall be suitably indexed, for convenient reference to the subjects treated therein. Not to exceed 2,500 copies of any volume shall be so published. Commission is likewise authorized to
3088 print for distribution in pamphlet form a suitable number of its opinions and decisions as the same are from time to time announced. Commission shall, on or before the first Monday in December, in each year, make a report to the governor for the preceding year, containing such information, suggestions, or recommendations as it may deem proper. *Laws 1907, ch. 582, sec. 1797-37n, as amended by Laws 1911, ch. 229.*

See also pars. 708, 4254.

¹ Commission shall, on or before December 1 in each year, tabulate and publish in statistical form such reports made to it in pursuance of the constitution and laws of this state, as required by subsection (a) of section 156 of the constitution proper, and shall, on the same date in each year, make report to the governor as required by subsection one of said section, to be by him laid before the general assembly at each regular session thereof. *Pollard's Code 1904, sec. 1313a(51).*

ment of its laws, or the condition, affairs, or conduct of any common carriers, as may seem to them appropriate; (4) drafts of all bills suggested or recommended by them, and the reasons therefor; (5) such tables and abstracts of all reports of all the common carriers as it may deem expedient; (6) a statement in detail of the traveling expenses and disbursements of commission, its clerks, marshal, and experts. *Laws 1907, no. 250, sec. 21.*

See also pars. 667, 763, 2665.

RHODE ISLAND Commission shall make an annual report to the governor for transmittal to the general assembly on or before
3073 January 15, in each year, which shall contain copies of all orders passed and issued by it, and any information in the possession of commission which it shall deem of value to the general assembly and the people of the state. *Acts 1912, ch. 795, sec. 9.*

SOUTH CAROLINA Commission shall make an annual report to the legislature of its official acts, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the state; and suggestions as to the general railroad policy of the state, or as to any part thereof, or as to the
3074 condition, affairs or conduct of any of the railroad corporations as may seem to it appropriate, with a special report of all accidents, and the causes thereof for the preceding year. And it shall also recommend such legislation as in its judgment may be necessary to secure just and reasonable rates for the transportation of passengers and freights and for the prevention of unjust discrimination. *Gen. Stats. 1902, sec. 2074.*

See also pars. 400, 2458, 2917.

SOUTH DAKOTA Commission shall on or before November 15, in each year make a report to the governor of its doings for the preceding year containing such facts, statements and explanations as will disclose the workings of the system of railroad transportation in this state and its relation to the general business and prosperity of the citizens of this state, and such suggestions and recommendations in respect thereto as may to it seem appropriate. Such report shall also contain as to every railroad company doing business in this state: (1) the amount of its capital stock; (2) the amount of its preferred, if any, and the amount of its preferment; (3) the amount of its funded debt and the rate of interest; (4) the amount of its floating debt; (5) the cash and present value of its road and equipment in this state, including

permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and fixtures and conveniences
3075 for transacting its business; (6) the estimated cash value of all property owned by such railroad company in this state, with a schedule of the same, not including lands granted in aid of its construction; (7) the number of acres situated in this state originally granted in aid of the construction of its said road by the United States or by this state; (8) the number of acres of said land remaining unsold; (9) a list of the officers and directors, with their respective places of residence; (10) such statistics of the road and of the transportation and business for the year within this state as may in the judgment of commission be necessary and proper for the information of the legislature, or as may be required by the governor. Such reports shall exhibit and refer to the condition of the railroad company on July 1, of such year, and the details of its transportation business transacted during the year ending June 30; (11) the average amount of tonnage that can be carried over each road within the state with one engine of given power. *Rev. Pol. Code 1903, sec. 193.*

The report of commission shall contain consolidated statement of the conditions of the railroads operating in this state, but shall not print the reports of the several roads at large, nor
3076 shall a list of free tickets and passes, issued by the several roads to the citizens of this state, which are required to be filed in the office of commission, be published. *Sess. Laws 1909, ch. 290, sec. 7.*

See also pars. 2270, 2459.

TENNESSEE Commission shall, annually, on January 6 make a report to the governor of all matters relating to its office for the preceding year, and such as will disclose the practical
3077 workings of the railroads in this state, and such suggestions in relation thereto as it may deem necessary and proper, together with the minutes of all its meetings and shall have printed and lay before each legislature 500 copies of its reports for the two preceding years. *Acts 1897, ch. 10, sec. 31.*

TEXAS Commission shall make and submit to the governor annual reports containing a full and complete account of the transactions of its office, together with the information
3078 gathered by commission as herein required, and such other facts, suggestions, and recommendations as may be by it deemed neces-

conveniences for transacting its business; (18) the estimated value of all other property owned by such corporation with a schedule of the same, not including lands granted in aid of its construction; (19) the number of acres originally granted in aid of construction of its road by the United States or by this state, the number of acres of such land remaining unsold; (20) a classified list of its officers and directors, with their respective places of residence and the salaries paid to each class; (21) the number of its employes, classified, and the salaries paid each class; (22) the average amount of tonnage that can be carried over each road in the state with an engine of given power. Such additional statistics of the road and of its transportation business for the year as may, in the judgment of commission be necessary and proper for the information of the legislative assembly, or as may be required by the governor. Such reports shall exhibit and refer to the condition of such corporation and the details of its transportation business transacted during the year ending June 30. *Rev. Codes 1905, sec. 4363.*

Commission shall report in writing its findings to the governor within ten days after the close of each session. *Laws 1909, ch. 195, sec. 4.*

See also pars. 395, 996, 997, 2596, 2658.

OHIO

On or before January 1, of each year, commission shall make to the governor a report of the affairs and conditions of the railroads and telegraph companies having lines in the state, and also of accidents on railroads resulting in injuries to persons and the circumstances and causes thereof. Commission shall include in its report such other information and such suggestions and recommendations as in its opinion are of importance to the state. *Code 1910, sec. 614.*

Commission shall annually as early as December 15, make and deliver to the governor, a full report of the operation and execution of all laws which it is herein required to administer, for the year ending November 15, twenty-five hundred copies of which shall be printed in book form for the use of the general assembly and the public. In addition thereto, it shall make such recommendations to the general assembly as it may from time to time deem proper. *Laws 1911, no. 325, sec. 84.*

OKLAHOMA

Commission shall make annual reports to the governor of its proceedings, in which reports it shall recommend from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation

or control of corporations, or to the subject of taxation, as it may deem wise or expedient or as may be required by law. *Const., art. ix, sec. 25.*

See also par. 665.

OREGON

Commission shall report to the governor annually on or before December 15, and at any other times required by him, its doings for the preceding year, with such facts, statements and explanations as will show the actual workings of the system of railroad transportation of the state, its bearings on the business and prosperity of the people, and such suggestions relative thereto as it shall deem proper. It shall also recommend to the governor any amendment of the railroad laws which it shall deem advisable, and, when directed by the governor, shall investigate any matter subject to its supervision and report thereon. All such reports shall be transmitted to the legislative assembly by the governor as soon as practicable. *Gen. Laws 1907, ch. 53, sec. 46.*

The annual report of commission to the governor shall show its proceedings under this act, and shall also show the details per unit as provided in section 19 hereof for all the public utilities of each kind in this state, together with such other facts and suggestions relative thereto as commission shall deem advisable.

3071 Commission shall also publish in its annual reports the value of all property actually used and useful for the convenience of the public, of every public utility as to whose rates, charges, service or regulations any hearing has been held by commission, or the value of whose property has been ascertained by it as provided in this act. *Gen. Laws 1911, ch. 279, sec. 20.*

See also pars. 491, 669.

PENNSYLVANIA

Commission shall make an annual report,¹ on or before the second Monday of January in each year, to the governor, and a duplicate thereof shall be filed with the secretary of internal affairs, which shall contain; (1) a record of its meetings, and an abstract of its proceedings during the preceding year; (2) the result of any examination or investigation made by it; (3) such statements, facts, and explanations as will disclose the actual workings and operations of common carriers in their relations to the business and prosperity of the state; and such suggestions as to the general policy of the state, or the amend-

¹ Two thousand five hundred copies of the report with report of the common carriers of the state, shall be printed as a public document of the state, bound in cloth, for the use of commission and to be distributed by it, in its discretion, to the officers of the common carriers and other persons interested therein. *Laws 1907, no. 250, sec. 21.*

road in the state with an engine of given power. Said report to exhibit and refer to the conditions of said railway companies on July 1, of each year, and the details of its transportation business transacted during the year ending June 30. *Cobbey's Annot. Stats. 1909, sec. 10650(o).*

See also pars. 652, 654.

NEVADA The regular reports of commission shall be made to the governor annually as soon after December 31 in each year as may be feasible in order to bring the report down to that date. *Stats. 1907, ch. 44, sec. 32, as amended by Stats. 1909, ch. 121, sec. 10.*

Public service commission shall make and publish annual reports for each calendar year showing its proceedings, which reports shall, as nearly as may be, conform in a general way to those of the railroad commission of this state, and be made at the same time. *Laws 1911, ch. 162, sec. 9.*

NEW HAMPSHIRE Commission shall file with the secretary of state on or before December 1, its biennial report to the legislature, which shall contain an account of its doings during the years, a statement of the expenses incurred by it, such statistical and other information with regard to railroads and public utilities in the state as commission may deem of public interest and such suggestions and recommendations as to needed legislation, or other matter, affecting railroad corporations and public utilities as commission may think will promote the public good. *Laws 1911, ch. 164, sec. 20.*

See also par. 2452.

NEW JERSEY Commission shall report annually, on or before January 1, to the governor,¹ making such recommendations as it may deem proper, which report shall be laid before the next succeeding legislature. *Laws 1911, ch. 195, sec. 14.*

NEW YORK Each commission shall make an annual report to the legislature on or before the second Monday of January in each year, which shall contain copies of all orders issued by it, and any information in the possession of commission which it shall deem of value to the legislature and the people of the

¹ Commission shall furnish its secretary such of its findings and decisions as, in its judgment, may be of general public interest; the secretary shall compile the same for the purpose of publication in a series of volumes to be designated "Reports of the board of public utility commissioners of the state of New Jersey," which shall be published in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of commission therein contained without any further proof or authentication thereof. The contents of said reports shall not be under the supervision or control of the official state editor. *Laws 1911, ch. 195, sec. 7.*

3043 state. Five hundred copies of each report, together with abstracts of the reports to such commission of corporations and persons subject to its supervision, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of commission and to be distributed by it in its discretion to corporations and persons interested therein. *Laws 1910, ch. 480, sec. 16(1).*

NORTH CAROLINA Commission shall make to the governor annual reports of its transactions, and recommend from time to time such legislation as it may deem advisable under the provisions of this chapter, and the governor shall have 1,000 copies of such report printed for distribution. *Pell's Revisal 1908, sec. 1117.*

NORTH DAKOTA Commission shall, on or before the first Monday in December in each year, make a report to the governor of its doings for the preceding year, containing such facts, statements and explanations as will disclose the workings of the system of railroad transportation in this state, and its relation to the general business and prosperity of the citizens of the state, and such suggestions and recommendations in respect thereto as may to it seem appropriate. Said report shall also contain, as to every railroad, railroad corporation or common carrier doing business in this state: (1) the total number of miles of main line and branches owned or operated; (2) the total number of miles of main line and branches owned or operated in each county within this state; (3) the total mileage of side tracks within each county or taxing district in this state; (4) the amount of its capital stock issued; (5) the amount paid therefor; (6) the manner of the payment of the same; (7) the dividends paid; (8) the surplus fund, if any; (9) the number of stockholders; (10) the amount of its preferred stock, if any, and the condition of its preferment; (11) the amount of its funded debt and the rate of interest paid thereon; (12) the amount of its floating debt and the interest paid thereon; (13) the amount expended for improvements each year, and how and where expended, and the character of the improvements made; (14) the earnings and receipts from each branch of its business and from all sources; (15) the operating and other expenses; (16) the balances of profits and losses; (17) the cost and actual present cash value of its franchises, road and equipment, including permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and all fixtures and

MINNESOTA

Commission shall report to the governor annually on or before December 1, and at other times if required by him, its doings for the preceding year, with such facts, statements, and explanations as will show the actual working of the system of railroad transportation of the state, in its bearings on the business and prosperity of the people, and such suggestions relative thereto as it shall deem proper. It shall also biennially recommend to the governor any amendment of the railroad and warehouse laws which it shall deem desirable, and when directed by the governor, shall investigate any matter subject to its supervision, and report thereon. All such reports shall be transmitted by the governor to the legislature as soon as practicable. *Rev. Laws 1905, sec. 1985.*

See also par. 2645.

MISSISSIPPI

Commission shall make a report every two years to the legislature of all its acts and doings for the two preceding years, ending on the prior September 30. The reports shall give all necessary and proper information concerning the operations of the railroads of the state and its transportation facilities, and embrace such suggestions as commission deems proper. *Laws 1908, ch. 84, sec. 1.*

See also pars. 95, 2591, 2648.

MISSOURI

Commission shall, on or before December 31 of each year, transmit to the governor of this state a report¹ of its official acts for the year ending on June 30 as aforesaid, and the said report shall contain a condensation of statistics tabulated from the returns of the several railroad companies, together with all such information and recommendations concerning the regulation of the railroads of this state as commission may deem to be of public interest and importance. *Rev. Stats. 1909, sec. 3089.*

Commission shall in its annual report to the governor include a condensation of statistics, tabulated from the returns of the several express companies, together with all such information and recommendations concerning the regulations of the express companies doing business in this state as commission may deem to be of public interest and importance. *Same, sec. 3294.*

Commission shall, on or before January 1, of each year,

¹ The annual reports of commission made to the governor, as is now or as may hereafter be provided by law, shall be printed at the expense of the state in the manner provided by law for the printing of other public documents. Three thousand copies are hereby authorized to be printed and bound annually under the direction of commission, and to be by it properly distributed throughout the state. *Rev. Stats. 1909, sec. 3257.*

make a report to the governor of its doings for the preceding year, to contain such facts as will disclose the actual working of the system of the warehouse business of this state as contemplated by this article, and such suggestions thereto as to it may appear pertinent. *Same, sec. 6817.*

MONTANA Commission shall make and submit to the governor annual reports containing a full and complete account of the transaction of its office, together with such facts, suggestions and recommendations as may be by it deemed necessary, which report shall be published as the reports of other departments of the state. The said report shall contain a statement as to the number of accidents investigated by commission as herein provided, and the number of persons killed or injured in them and generally the cause of such accidents. *Rev. Codes, 1907, sec. 4396.*

NEBRASKA Commission shall annually, on or before the first Monday in December, make a report to the governor of its doings for the preceding year, containing such facts, statements and explanations as will disclose the workings of railroad systems of this state, and their relations to the general business and prosperity of the citizens thereof, with such suggestions and recommendations in respect thereto, as may to commission seem appropriate. Said report shall also contain, as to every railroad corporation doing business in this state; (1) the amount of its capital; (2) the amount of its preferred and common stock, if any, and the condition of each; (3) the amount of its funded debt and the rate of interest; (4) the amount of its floating debt; (5) the cost and actual present cash value of its road equipment, including permanent way, buildings and rolling stock, and all real estate used exclusively in operating the road, and fixtures and conveniences for transacting its business; (6) the estimated value of all other property owned by it, with schedule of the same, not including lands granted in aid of its construction; (7) the number of acres originally granted by the United States or this state in aid of the construction of said road; (8) the number of acres of such land remaining unsold; (9) a list of its officers and directors with their respective places of residence; (10) such statistics of the road and of its transportation business for the year as may, in the judgment of commission, be necessary and proper for the information of the legislature or as may be required by the governor; (11) the average amount of tonnage that can be carried over each

degrees of curves on its road in Kansas; (14) such additional statistics of the road of its business in Kansas for the year as may in the judgment of commission be necessary and proper for the information of the legislature, or as may be required by the governor or the legislature. *Gen. Stats. 1909, sec. 7217.*

See also pars. 627, 915.

KENTUCKY Commission shall annually, on December 1, make a report to the governor of all matters relating to its office for the preceding year, and such as will disclose the practical
3044 workings of the railroads in this state, and such suggestions in relation thereto as it may deem necessary and proper, and shall have printed and lay before each legislature within the first ten days of its session 500 copies of its reports for the preceding two years. *Carroll's Stats. 1909, sec. 834.*

See also pars. 1905, 2444.

MAINE *See pars. 2445, 2577, 2578, 2634.*

MARYLAND Commission shall make an annual report to the governor and to the general assembly on or before the second
3045 Monday of January in each year, which shall contain copies of all orders passed and issued by it, and any information in the possession of commission which it shall deem of value to the legislature and the people of the state. *Laws 1910, ch. 180, sec. 8.*

See also par. 630.

MASSACHUSETTS Commission shall annually, on or before the first Wednesday in January, transmit to the secretary of the commonwealth a report to the general court of its doings, with such suggestions as to the condition of affairs or conduct of
3046 corporations and companies which are engaged in the manufacture and sale of gas or electricity for light or heat as may be appropriate, with such abstracts of the returns required by section 31 as it considers expedient and an abstract of the accidents reported to it under the provisions of section 39. *Rev. Laws, 1902, ch. 121, sec. 7.¹*

Highway commission, shall annually, on or before the first Wednesday in January, transmit to the secretary of the commonwealth a report to the general court of all proceedings under
3047 the provisions of this act during the period covered by the report, together with such suggestions as to the condition or conduct of companies engaged in the transmission of intelligence by elec-

¹ See footnote 1, par. 276.

tricity as commission may deem expedient. *Acts 1906, ch. 433 sec. 4.*

Commission shall make an annual report, which shall be transmitted to the secretary of the commonwealth, on or before the first Wednesday in January, and be laid before the general court. The report shall include such statements, facts and explanations as will disclose the actual working of the system of railroad and railway transportation in its bearing upon the
3048 business and prosperity of the commonwealth, such suggestions as to its general railroad and railway policy, or any part thereof, or the condition, affairs or conduct of any railroad corporation or street railway company, as may seem to it appropriate, such tables and abstracts of all the returns required to be made by a corporation or company, as it considers expedient, and a report of any proceedings taken under the provisions of section nine. *Acts 1906, ch. 463, pt. i, sec. 5.*

Railroad commission shall on or before January 15, of each year transmit to the bank commissioner a list of all street railway
3049 companies which appear from the returns made by said companies to have properly paid, without impairment of assets or capital stock, the dividends required by the preceding section. *Acts 1906, ch. 463, pt. iii, sec. 148.*

Railroad commission shall prepare tables and abstracts of the returns of the several companies, and transmit said returns
3050 and tables and abstracts to the secretary of the commonwealth at the time and in the manner provided in section five, of part I. for the transmission of the returns of railroad corporations. *Same, sec. 153.*

See also pars. 758, 761, 2704, 3442.

MICHIGAN

Commission shall, on January 1, of each year, render to the governor a full and complete report of all such findings, decisions, determinations and investigations, together with a statement of all moneys expended by it or on its order, and of all salaries paid by or to it. It shall include in such report such
3051 recommendations as it shall desire to make on the conduct of railroad business in the state of Michigan, and such portion or abridgment of the reports of the various railroad corporations made to it as it shall deem to be of interest to the general public. Not more than 1,500 copies of this report shall be published, except by special authority of the board of state auditors. *Pub. Acts 1909, no. 300, sec. 48.*

See also pars. 489, 4220.

common carriers and warehouses, and report to him in writing its opinion thereon with its reasons therefor. *Revisal 1909, ch. 114, sec. 176.*

INDIANA

Commission shall make an annual report to the governor which shall be transmitted to him on or before the first Wednesday in January. The report shall include such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the state; such suggestions as to its general railroad policy or any part thereof or the condition, affairs or conduct of any railroad corporation as may seem to it
3041 appropriate, and such tables and abstracts of all the returns required to be made by railroad corporations as it considers expedient. Such report shall also include a complete account of the transactions and proceedings of commission, together with a full detailed statement of its receipts and expenditures, and shall be published as the reports of other state officers and boards. Commission shall also publish, with annotations, for the information of the public the laws of this state concerning the carriers subject to this act. *Acts 1907, ch. 241, sec. 10(b).*

IOWA

Commission shall annually on or before the first Monday in December make a report to the governor of its doings for the preceding year, containing such facts, statements and explanations as will disclose the working of such systems of railroad transportation in the state, and their relation to the general business and prosperity of the citizens thereof, with such suggestions and recommendations in respect thereto as may to commission seem appropriate. Said report shall also contain, as to every railroad corporation: (1) amount of its capital; (2) amount of its preferred stock, if any, and the condition of its preferment; (3) amount of its funded debt and the rate of interest; (4) amount of its floating debt; (5) cost and actual present cash value of its road equipment, including permanent way, buildings and rolling stock, all real estate used exclusively in operating the road, and all fixtures and conveniences for trans-
3042 acting its business; (6) estimated value of all other property owned by it, with a schedule of the same, not including lands granted in aid of its construction; (7) number of acres originally granted it by the United States or this state in aid of the construction of its roads; (8) number or acres of such land remaining

unsold; (9) list of its officers and directors, with their respective places of residence; (10) such statistics of the road and of its transportation business for the year as may, in the judgment of commission, be necessary and proper for the information of the general assembly or as may be required by the governor; (11) average amount of tonnage that can be carried over each road in the state with an engine of given power. Which report shall exhibit and refer to the condition of such corporation on the first day of July of each year, and the details of its transportation business transacted during the year ending June 30. *Code 1897, sec. 2114.*

See also pars. 757, 2442, 2630.

KANSAS

Commission shall, on or before the first Monday in December in each even numbered year, make a report to the governor of its acts and proceedings for the preceding years, containing such facts, statements and explanations as will disclose the working of the system of railroad transportation in this state, and its relations to the general business and prosperity of the citizens of the state, and such recommendations in respect thereto as may seem appropriate. Said report shall also contain, as to every railway corporation: (1) amount of its capital stock and the amount paid on the same; (2) amount of its preferred stock, if any, and the condition of its preferment; (3) amount of its funded debt and the rate of interest; (4) amount of its floating debt; (5) amount of gross income from the operation of its road in Kansas, with the specific items and sources of such income, as far as practicable; (6) items of gross expense incurred in the operation of its road in Kansas; (7) the net income from the operation of its road in Kansas; (8) number of miles of road, **2043** single and double track being stated separately; also the number of miles of side tracks and switches, with the location of the same, owned and operated by it in Kansas; (9) actual cost and also the actual present cash value of its road and equipment, including permanent way, buildings, and rolling stock, all real estate used exclusively in operating the road, and all fixtures and conveniences for transacting its business in the state of Kansas; (10) estimated value of all other property owned or held by such corporation in Kansas, with a schedule of the same, including the lands granted in aid of its construction; (11) list of all its officers and directors, with their respective places of residence; (12) average amount of tonnage that can be carried over each road in the state with an engine of given power; (13) maximum grade and number and

3086 railway in any town, or any railroad in any town except within the limits of a city, until the company desiring to build or extend its railway shall have applied to the superior court or judge thereof, and obtained, in the manner hereinafter provided, a finding that public convenience and necessity require the construction of such railway. Any company intending to build or extend such railway shall make an application to the superior court or a judge thereof for a finding that public convenience and necessity require the construction of such railway; and such court or judge shall thereupon fix a time and place to hear such application, and shall cause notice to be served, at least twelve days before the day of hearing, upon any railroad company or companies and any street railway company or companies that may be affected by the construction of such road, and upon the selectmen of any town, the mayor of any city, or the warden and burgesses of any borough within whose limits it is proposed to build such railway. Such court or judge shall hear the parties and determine whether public convenience and necessity require the construction of such railway, in whole or in part, and the decision of such court or judge shall be final and conclusive upon the parties. *Gen. Stats. 1902, sec. 3846.*

KANSAS

No common carrier or public utility shall transact business in the state until it shall have obtained a certificate from commission that public convenience will be promoted by the transaction of said business and permitting said applicants 3091 to transact the business of a common carrier or public utility. This section shall not apply to any common carrier or public utility governed by the provisions of this act now transacting business in this state. *Laws 1911, ch. 238, sec. 31.*

MAINE

Said directors (of a proposed railroad) shall present to the railroad commission a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The railroad commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as 3092 said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. If the railroad commission, after notice and hearing the parties, finds that all the provisions of sections one and two have been complied with, and that public convenience requires the construction of such railroad, said commission shall

indorse upon said articles a certificate of such facts and the approval of the board in writing. *Rev. Stats. 1903, ch. 51, sec. 3.*

Every (railroad) corporation organized under the foregoing provisions, before commencing the construction of its road, shall present to the railroad commission a petition for approval of location, defining its courses, distances and boundaries accompanied with the map first presented, and with a profile of the line on the relative scales of profile paper in common use, and with a report and estimate prepared by a skilful engineer from
3093 actual survey. The railroad commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. If the railroad commission, after hearing the petition, approves the proposed location, the corporation may proceed with the construction thereof. . . . *Same, sec. 6.*

Every (street railway) corporation organized under the foregoing provisions before commencing the construction of its road, shall present to the railroad commission a petition for approval of location defining its courses, distances and boundaries, accompanied with a map of the proposed route on an appropriate scale with the written approval of the proposed route and location as to streets, roads or ways of the municipal officers of the cities and towns in which such railroad is to be constructed in whole or in part, and with a report and estimate prepared by a skilful engineer. * * * Said commission shall upon presentation of such petition appoint a day for a hearing thereon and the petitioner shall give such notice thereof as said commission deem reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. At such hearing any person interested may appear in
3094 person or by counsel. The railroad commission, after hearing the petition, shall, if they approve such location, subject to the provisions of section 12, then determine whether a public convenience requires the construction of such road and make a certificate of such determination in writing which certificate shall be filed with their clerk within 30 days after such hearing. * * * If the commission approve such location and find that public convenience requires the construction of such road, the corporation may proceed with the construction of such road, provided that it first files with the clerk of county com-

missioners for the county in which said street railroad is to be located, a copy of the location and plan aforesaid and another copy of the same with the commission. Any extension of or addition to or variation from the location of any street railroad organized under the provisions hereof, may be made in accordance with and subject to the foregoing provisions. . . .
Rev. Stats. 1903, ch. 53, sec. 7.

MARYLAND

No common carrier, railroad or street railroad corporation, shall begin the construction of a railroad or street railroad or any extension thereof, or exercise any franchise or right under any provision of the railroad law, or of any other
3095 law, not heretofore lawfully exercised without having first obtained the permission and approval of commission. Commission shall have power to grant the permission and approval whenever it shall, after due hearing, determine that such construction or such exercise of a franchise or privilege is necessary or convenient for the public service. *Laws 1910, ch. 180, sec. 26.*

No gas or electrical corporation shall begin construction or exercise any right or privilege under any franchise hereafter granted without first having obtained the permission and approval of commission. No municipality except the mayor and
3096 city council of Baltimore shall build, maintain and operate for other than municipal purposes any works or systems for the manufacture and supplying of gas or electricity for lighting purposes without a certificate of authority granted by the commission. *Same, sec. 33.*

MASSACHUSETTS In a city or town in which a gas company exists in active operation, or in which a person owns or operates works for the manufacture and sale of gas for light or heat, no other gas company, nor any other persons, shall dig up and open
3097 the streets, lanes and highways of such city or town, for the purpose of laying gas pipes therein, without the consent of the mayor and aldermen, or selectmen, granted after notice by publication or otherwise to all parties interested and a public hearing before them. *Rev. Laws 1902, ch. 121, sec. 25.*

In a city or town in which a company, corporation or person is engaged in the manufacture or sale of electric light no other person, firm or corporation shall lay, erect, maintain or use, over or under the streets, lanes and highways of such city or town,
3098 any wires for the transmission of electricity for light, heat or power except wires used for heat or power by street railway

companies, without the consent of the mayor and aldermen of such city or selectmen of such town granted after notice to all parties interested and a public hearing. *Same, sec. 26.*

Any corporation, company or person aggrieved by the decision of the mayor and aldermen of a city or selectmen of a town, under the provisions of the two preceding sections, may, 3099 within 30 days from the notice of said decision, appeal therefrom to the gas and electric light commission, and said commission shall thereupon give due notice and hear all parties interested, and its decision thereon shall be final. *Same, sec. 27.*

In consenting to the laying, erecting, maintaining or using by a company incorporated or authorized to distribute and sell electricity exclusively for power, of any wires for the transmission of electricity over or under streets, lanes and highways as provided in section 26 of chapter 121 of the revised laws, the mayor and aldermen of a city or the selectmen of a town 3100 may, in addition to the provisions of law governing such companies, impose such other terms, limitations and restrictions as the public interest may, in their judgment, require, and upon an appeal therefrom, pursuant to section 27 of said chapter, the gas and electric light commission may, in addition to its present authority under said section, affirm, amend, alter or add to the terms, limitations and restrictions so imposed as the public interest may in its judgment require. *Acts 1908, ch. 617, sec. 1.*

After compliance with the provisions¹ of sections 13 to 16, inclusive, and within 30 days after the first publication of notice of the agreement of association therein required, the directors therein named shall apply to the railroad commission for a 3101 certificate that public convenience and necessity require the construction of a railroad as proposed in such agreement. If said commission refuses to issue such certificate, no further proceedings shall be had, but the application may be renewed after one year from the date of such refusal. *Acts 1906, ch. 463, pt. ii, sec. 18.*

If they (the directors of the proposed railroad corporation and the aldermen of a city or the selectmen of a town) fail so to agree (as to the route through any city or town), the directors may petition the railroad commission to fix the route in said city or town; and said commission, after notice to said 3102 board of aldermen or selectmen, shall hear the parties, and fix the route in such city or town and make a certificate setting

¹ Sections 13 to 16 provide for the formation by general law of railroad corporations.

forth the route as fixed by it, which shall be certified by its clerk to the directors. The costs of the petition shall be paid by the directors. All variations from the route first proposed shall be made upon the map. *Same, sec. 21.*

When it is shown to the satisfaction of the railroad commission that the requirements of this chapter preliminary to the incorporation of a railroad corporation have been complied with, and that an amount sufficient in its judgment to pay all damages immediate or consequential which may be occasioned by laying out, making and maintaining the railroad, or by taking any land or materials therefor, has in good faith been paid in cash to the treasurer, and when said commission is satisfied by a bond, or such other assurance of good faith as it may consider necessary and require, that said amount will remain in the
§103 hands of said treasurer until it is drawn out for the lawful expenditures of the corporation, the clerk of said commission, upon its order, shall annex to the agreement of association a certificate stating that such requirements have been complied with. The directors shall thereupon file the agreement of association, with all the certificates annexed thereto, in the office of the secretary of the commonwealth; who, upon the payment to him of a fee of \$50, shall receive and preserve the same in form convenient for reference and open to public inspection, and shall thereupon issue a certificate of incorporation substantially in the following form. . . . *Same, sec. 24.*

A railroad corporation shall not locate or begin to construct its railroad or a branch or extension thereof, or enter upon and use land or other property, except for making surveys, until a sworn estimate of the total cost of constructing the same, prepared by its chief engineer, has been submitted to the railroad commission and approved by it; nor until said commission is satisfied that an amount of the capital stock of the corporation equal to at least 50 per cent. of such estimated cost has been actually subscribed by responsible parties without any condition which invalidates the subscription, and that 20 per cent. of the par value of each share has been actually paid in; and that the authority and consent required by section 82 have been obtained; nor until the clerk of said commission, upon its
§104 order, has filed a certificate with the secretary of the commonwealth that the provisions of this section have been complied with; nor until the corporation has paid to the secretary a fee of \$50 for filing such certificate. The supreme judicial court

shall have jurisdiction in equity, if said commission certifies a location before ascertaining that the authority and consent ¹ required by section 82 have been obtained. The certificate of a master in chancery or a justice of a court of record for the county in which a subscriber resides that he owns property in his own name equal in value, above all encumbrances, to the amount of his subscription shall be conclusive evidence of his responsibility. If said commission refuses its approval to an estimate or a subscription list so submitted, it shall in writing state its reasons therefor in detail at the time and shall include them in its next annual report. *Same, sec. 71.*

The board of aldermen of a city or the selectmen of a town are authorized on petition to grant original locations of tracks for street railways when in their opinion public necessity and convenience so require, and they may "prescribe how the tracks shall be laid and the kind of rails, poles, wires and other appliances which shall be used, and, in addition, to the general provisions of law governing such companies, and in respect of
3105 matters not treated of in such provisions, impose such other terms, conditions and obligations, incidental to and not inconsistent with the objects of a street railway company, as the public interests may in their judgment require; but no such location shall be valid until the railroad commission, after public notice and a hearing, shall certify that such location is consistent with the public interests." *Acts 1906, ch. 463, pt. iii, sec. 7, as amended by Acts 1909, ch. 417, sec. 1.*

If railroad commission requires an alteration in such location before certifying that the same is consistent with the public interests, said commission shall notify the board of aldermen or selectmen granting such location of such alteration; and there-
3106 after said board of aldermen or selectmen may amend such location in accordance with such alteration; . . . and thereafter the railroad commission may, as a part of the original proceedings before it, certify that such location so amended is consistent with the public interests. * * * A location granted by a board of aldermen or selectmen, but refused certification hereunder by the railroad commission, or not accepted as hereinbefore provided, shall be void. *Same.*

When it is shown to the satisfaction of the railroad commission that the requirements of this act preliminary to incorporation of a (street railway) company have been complied with,

¹ Section 82 requires the consent of county commissioners to the manner in which highways are to be crossed.

3107 and that locations have been obtained for a railroad between the termini and substantially over the route set forth in the agreement of association, the clerk of said commission, upon its order, shall annex to the agreement of association a certificate stating such fact. . . . *Same, sec. 9.*

A street railway constructed upon private land shall not be opened for public use until the railroad commission, after an examination, certifies that all laws relative to its construction and all requirements of said commission have been complied with, and that it appears to be in a safe condition for operation. Said company may, at any time after the opening of a street railway for public use, order such changes and improvements to be made in the construction and operation of any part thereof upon private land as in its judgment may be necessary for public safety in the use thereof; and such order shall be complied with by the street railway company. *Same, sec. 44.*

Provision is also made to the effect that if a street railway company desires to use private land and if on application it obtains the approval of the board of aldermen of a city or of the selectmen of a town in which it desires to take such land, it may apply to the railroad commission for approval of the adjudication of the board of aldermen or of the selectmen as to the necessity and reasons for taking land or rights in land in every city or town in which such adjudication has been made. If the railroad commission after public notice and a hearing at which all persons or corporations alleging that they would be injured by the construction of the railway shall be deemed to be interested parties and entitled to be heard, grant the certificate as prayed for, the petitioner may take in any city or town in the manner provided in the following section, any land or rights in land, the taking of which has so been approved by such commission. *Same, sec. 46.*

The board of aldermen of a city or the selectmen of a town, after the expiration of one year from the opening for use of a street railway in their city or town, and after public notice and a hearing as provided in section seven, if the public necessity and convenience in the use of the streets so require, may, for good and sufficient reasons to be stated in the order therefor, revoke the location of a street railway in any highway or street in said city or town; but unless, within 30 days after such order of revocation, the company consents thereto in writing, such

order shall not be valid until approved by the railroad commission after public notice and a hearing. *Same, sec. 66.*

After compliance with the provisions of section one and of the two preceding sections (relating to agreements of association), and within 30 days after the first publication of notice of the agreement of association therein required, the directors (of an electric railroad company) therein named shall apply to the railroad commission for a certificate that public convenience and necessity require the construction of a railroad as proposed in such agreement. With such application said directors shall file a map of the railroad showing the cities and towns through which it will pass, the principal highways, railways, railroads, navigable streams and tide waters to be crossed, and the extent
§111 to which the route of the railroad will be fixed upon private land or will be located longitudinally upon public ways and places. They shall also file a general profile of the railroad showing the grades, and shall submit an estimate showing in reasonable detail the cost of construction. The directors shall also furnish such additional maps and information as said commission may require. Prior to the decision of said commission the directors may change or modify the route in any city or town in whole or in part either at the suggestion of said commission or otherwise. If said commission refuses to issue such certificate, no further proceedings shall be had, but the application may be renewed after one year from the date of such refusal. *Acts 1906, ch. 516, sec. 5.*

It is further provided that the railroad commission with the approval of the board of aldermen of a city or the selectmen of a town may fix the right of way of an electric railroad company. *Same, sec. 7, as amended by Acts 1907, ch. 428, sec. 2, and Acts 1908, ch. 450.*

An electric railroad company¹ shall act as a common carrier of baggage, express matter and freight in such cases, upon such parts of its railroad, and to such extent, in any city or town as, after public notice and a hearing . . . the board of aldermen or the selectmen or those exercising the powers of such board or of selectmen, in such city or town shall by order
§112 approve; provided, however, that a company shall actually engage in the business of a common carrier under authority of

¹ Authority for street railway companies to become common carriers of newspapers, baggage, express matters and freight subject to the approval of the railroad commission is conferred by acts 1907, ch. 402, sec. 1. Such authority may be revoked or terminated at any time in any city or town or upon any part of the street railway by the board of aldermen or selectmen with the approval of the railroad commission.

this act only in such of the cases upon such of the parts of its railroad and to so much of the extent, approved as aforesaid, as the railroad commission shall certify, after public notice and a hearing that public necessity and convenience require; . . . *Same, sec. 10.*

MICHIGAN Any person, copartnership or corporation desiring to obtain a franchise to construct a telephone system in any municipality, shall apply to said railroad commission for a certificate of public convenience and necessity, and said commission may grant or withhold said certificate after a public hearing and
§114 investigation upon the merits of the application in the manner provided herein for the holding of public hearings and investigation on complaint, and no such person, copartnership or corporation shall be granted a franchise in any municipality in the state of Michigan to construct a telephone system until they have received a certificate of public convenience and necessity herein provided for. *Pub. Acts 1911, no. 138, sec. 7.*

NEW HAMPSHIRE Without having first obtained permission of commission no railroad corporation shall begin the construction of an extension of its railroad or of any branch thereof, and the commission shall grant such permission, whenever, after due hearing, it shall determine that such construction or extension
§115 would be for the public good and not otherwise. If the petition shall be granted, the railroad corporation shall file in the office of secretary of state a copy of the petition and of the order of commission thereon. Authority granted under the provisions of this section may only be exercised within two years after the same is granted, and shall not be exercised thereafter. *Laws 1911, ch. 164, sec. 12(a).*

No public utility shall commence the business of transmission of telephone or telegraph messages or of supplying the public with gas, electricity or water, or shall engage in such business or begin the construction of a plant, line, main or other apparatus or appliance intended to be used therein in any city or town in which at the time it shall not already be engaged in such business, or shall exercise any right or privilege under any franchise hereafter granted in such town, without first having obtained the permission and approval of commission. Com-
§116 mission shall grant such permission whenever it shall, after due hearing, determine and find that such engaging in business, such construction or such exercise of the right, privilege or franchise

would be for the public good and not otherwise; and may prescribe such terms and conditions upon the exercise of the privilege granted under such permission as it shall consider for the public interest. Authority granted under the provisions of this section may only be exercised within two years after the same shall be granted and shall not be exercised thereafter. *Same, sec. 13(a).*

NEW YORK

Without first having obtained the permission and approval of the proper commission no railroad corporation, street railroad corporation or common carrier shall begin the construction of a railroad or street railroad, or any extension thereof, for which prior to the time when this act becomes a law a certificate of public convenience and necessity shall not have been granted by commission or where prior to said time said corporation or common carrier shall not have become entitled by virtue of its compliance with the provisions of the railroad law to begin such construction; nor except as above provided in this section shall any such corporation or common carrier exercise
3117 any franchise or right under any provision of the railroad law, or of any other law, not heretofore lawfully exercised, without first having obtained the permission and approval of the proper commission. Commission within whose district such construction is to be made or within whose district such franchise or right is to be exercised, shall have power to grant the permission and approval herein specified whenever it shall, after due hearing, determine that such construction or such exercise of the franchise or privilege is necessary or convenient for the public service. And if such construction is to be made or such franchise to be exercised in both districts, the approval of both commissions shall be secured. *Laws 1910, ch. 480, sec. 53.*

Held, that if the commission found that public necessity and convenience required the construction of a proposed railroad, it had no authority to deny a certificate upon the ground that the franchise contract with a municipality was not a wise one. *People ex. rel. South Shore Traction Co. vs. Willcox et al., 196 N. Y. 212.*

No gas or electrical corporation shall begin construction of a gas or electric plant without having first obtained the permission and approval of commission of each district within which
3118 any part of the work of construction is to be performed. *Same, sec. 68.*

No such corporation shall exercise any right or privilege
3119 under any franchise hereafter granted without first having ob

tained the permission and approval of the proper commission.
Same.

3120 Commission within whose district such construction is to be made, or within whose district such right, privilege or franchise is to be exercised shall have power to grant the permission and approval herein specified whenever it shall, after due hearing, determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. *Same.*

3121 No municipality shall build, maintain and operate for other than municipal purposes any works or systems for the manufacture and supplying of gas or electricity for lighting purposes without a certificate of authority granted by the commission.
Same.

3122 No telegraph or telephone corporation hereafter formed shall begin construction of its telephone or telegraph lines without first having obtained the permission and approval of commission and its certificate of public convenience and necessity, after a hearing had upon such notice as commission may prescribe. *Same, sec. 99(1).*

No railroad corporation formed after May 18, 1892, under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the certificate of incorporation to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the public service commission; nor until the commission shall certify that the foregoing conditions have been complied with, and also that public convenience and a necessity require the construction of said railroad as proposed in said certificate of incorporation. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If a certificate is refused no further proceedings shall be had before said commission, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the commission shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the commission shall certify a
3123 copy of all maps and papers on file in its office and of the findings of the commission when so requested by the directors aforesaid.

Such directors may thereupon present the same to the appellate division of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said appellate division shall have power, in its discretion, to order said commission, for reasons stated, to issue said certificate and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state, and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the fact therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, entering upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. The certificate provided for in this section shall not dispense with the permission and approval provided for in section 53 of the public service commissions law. *Laws 1910, ch. 481, sec. 9.*

Whenever application is made by a street surface railroad company for a certificate of public convenience and a necessity as required by the provisions of section 9, and it shall appear to the public service commission, after examination of the proposed route of the applicant company that public convenience and a necessity do not require the construction of said railroad as proposed in its certificate of incorporation but do require the construction of a part of the said railroad, the commission may issue its certificate for the construction of such part of the said railroad as seems to it to be required by public convenience and a necessity. In case any railroad company which shall hereafter obtain the certificate of the commission that public convenience and a necessity require the construction of the whole or a part of the said railroad shall fail to begin such construction within two years from the date of the issuing of said certificate, the commission may inquire into the reason for such failure and **§124** the said commission may revoke said certificate if it shall appear to it to be in the public interest so to do. Any street surface railroad company which proposes to extend its road beyond the limits of any city or incorporated village by a route which will be practically parallel with a street surface railroad already constructed and in operation shall first obtain the certificate of the commission that public convenience and a necessity require

the construction of such extension as provided in the case of a railroad corporation newly formed. Before making application for such certificate the corporation shall cause to be advertised the route of the proposed extension in one or more newspapers in each county in which such extension is to be constructed, at least once a week for three successive weeks, and shall file satisfactory proof of such publication with the commission. Nothing in this section shall prevent street railroad companies from making extensions within the limits of cities or incorporated villages upon compliance with the provisions of law now applicable thereto. *Same, sec. 10.*

Whenever it shall be made to appear to the public service commission that any steam railroad corporation, which has obtained from it or from the board of railroad commissioners a certificate under section 9 of this chapter since 1894, and whose road is less than ten miles in length, and was to be built
3125 in the counties of Saratoga and Washington, shall not have completed its construction and put it in operation within three years after obtaining such certificate, the said commission, on notice to such corporation, shall have the power to revoke the said certificate and consent and thereupon the corporate existence and power of such railroad corporation shall cease and determine. *Same, sec. 11.*

OHIO

No telephone company shall exercise any permit, right, license or franchise that may hereafter be granted to own or operate a plant for the furnishing of any telephone service thereunder in any municipality or locality where there is in
3126 operation a telephone company furnishing adequate service unless such telephone company first secures from commission a certificate after public hearing of all parties interested that the exercise of such license, permit, right or franchise is proper and necessary for the public convenience. *Laws 1911, no. 325, sec. 54.*

SOUTH DAKOTA

No railroad hereafter constructed in this state shall parallel any other line of railroad, already constructed, within eight miles of the same, for a greater distance, in every
3127 100 miles which it may build, than ten miles, exclusive of its trackage in any corporate city or town, without first having, on notice to such competing road, obtained from the commission permission so to do. *Sess. Laws 1907, ch. 217, sec. 1.*

Any railroad company desiring to construct a line of railroad in this state, and having otherwise complied with all laws in

force relevant thereto, may file with the commission a plat of such road proposed to be constructed, stating the principal points through which it is desired to construct such road, and thereupon the commission may, if satisfied that such road is desirable, and that there is probability of the same being constructed, grant a permit to such company to construct such road; and thereupon all the provisions of section 1 of this act shall apply to any other railroad which may seek to build into the same territory. *Same, sec. 2.*

Every telephone company must, before commencing to charge, collect or receive any rate or charge for the transmission of any messages or for any service in connection therewith, or for the rent of any line or instrument, or facility of any kind, file with the commission, a full, true and correct schedule or tariff showing every such rate or charge and a correct, examined copy verified by such telephone company, its officers or authorized agents, of every franchise and license granted to such company by any municipality in this state or assigned to it by any grantee thereof and still remaining in force, as well as a true, full and correct copy of any contract or agreement entered into by said company with any municipality, telephone company or companies, within 20 days after the granting or assignment of such franchise or license, or making of such contract or agreement. Such copies shall be duly certified as full, true and correct by the president, secretary or managing agent of such company. Provided, that all filings heretofore made with the board of telephone commissioners, as required by chapter 239 of Session Laws of 1907, shall in so far as they meet the requirements of this act, be deemed as filed with the commission at the time of taking effect of this act. *Sess. Laws 1909, ch. 289, sec. 4, as amended by Sess. Laws 1911, ch. 218, sec. 2.*

VERMONT

The state may, at any time during the continuance of the charter of a railroad corporation, after the expiration of 20 years from the opening of its railroad for use, purchase of the corporation the railroad, and the franchise, property, rights and privileges of the corporation, by paying it therefor such sum as will reimburse the amount of capital paid in, with a net profit thereon of ten per cent. per annum from the time of the payment thereof by the stockholders to the time of such purchase. *Pub. Stats. 1906, sec. 4328.*

Before the articles of association are thus filed, the persons who have subscribed them shall petition the public service com-

mission to hold a public hearing in the county where the proposed corporation is to have its principal office, to determine whether the construction of the proposed railroad will promote the general good of the state, and also whether they have complied with the provisions of the statute for the formation of a railroad corporation by voluntary association. Said commission shall thereupon appoint a time and place in such county for hearing the petition, and make an order for the publication of the substance of the petition and of the time and place of the hearing 3131 three weeks consecutively in a newspaper published in the county, or, for want thereof, in an adjoining county, the last publication to be at least 12 days before the day appointed for the hearing. The state's attorney of the county shall represent the state at the hearing. If, after the hearing, said commission finds and adjudges that the construction of the proposed railroad will be promotive of the general good of the state, and that the associates have complied with the provisions of the statute for the formation of a railroad corporation by voluntary association, it shall give the associates a certificate, under its hand and seal, to that effect, which shall be attached to and be recorded with the articles of association by the secretary of state. *Same, sec. 4338.*

WISCONSIN No railroad corporation hereafter organized shall exercise the powers conferred upon it by the laws of Wisconsin, nor begin the construction of any proposed line of railroad in this state, until it shall have obtained from the railroad commission of Wisconsin, a certificate that public convenience and necessity require the construction of said railroad as proposed in the articles of association of said railroad company, and such certificate shall constitute the license from this state to the company to build its said proposed railroad. *Laws 1907, ch. 454, sec. 1797-39.* 3132

Application for the foregoing certificate shall be made within 3133 six months from and after the publication of the articles of association of the company applying in the manner hereinafter set forth. *Same, sec. 1797-40.*

No railroad corporation shall make application for such certificate unless it shall have caused a copy of its articles of association to be published in one or more newspapers in each county 3134 in which the road is proposed to be located at least once in each week for two successive weeks and within six months next prior to the time of making such application, and shall file satisfactory

proof thereof with the said railroad commission. *Same, sec 1797-41.*

Nothing in this act shall prevent any railroad corporation from causing such examination and surveys for its proposed
3135 railroad to be made as may be necessary in order to select the best and most advantageous route, and for that purpose to enter upon the lands of any owner, but subject to responsibility for any damage that may be done thereto. *Same, sec. 1797-42.*

Every application for a certificate of convenience and necessity under the provisions hereof shall be accompanied by complete maps and profiles of the line of the proposed road, which maps and profiles shall be filed with the application by
3136 said railroad commission. Prior to the granting or refusing of said certificate the commission shall have the right to permit errors, omissions or defects in the application, maps and profiles to be supplied or corrected, and also to permit changes in the proposed route to be made where the same are deemed desirable. *Same, sec. 1797-43.*

If any railroad company heretofore organized shall hereafter desire to extend its line or lines of railroad in this state or to build extensions or branches connected therewith, or to construct any unconstructed portion of its authorized line of railroad, or any line of railroad whatever for which the right-of-way and local consents and franchises have not been procured, it shall, before beginning construction thereof, make application to the railroad
3137 commission for a certificate of convenience and necessity authorizing the construction of such extension or branch or lines in the manner hereinbefore provided; except that it shall not be necessary to publish the articles of association of such railroad but only to publish the notice of hearing of such application at least once in each week for two successive weeks preceding such hearing in one or more newspapers in each county in which said extension, branch or line is to be built. *Same, sec. 1797-44.*

Upon receiving an application under the provisions of this act, the railroad commission shall forthwith set a time and place for the hearing of such application, which time shall not be less than three weeks nor more than eight weeks from the date of filing such application, and the place shall be at the city of Madison, or at some place along the line of the proposed railroad
3138 if the commission shall deem the latter more convenient. The commission shall thereupon give to the applicant a notice of the time and place of said hearing, which notice shall be published

by the applicant at least once each week for two successive weeks preceding such hearing in one or more newspapers in each county in which the road is proposed to be located, and satisfactory proof of such publication shall be filed by the applicant with said railroad commission. *Same, sec. 1797-45.*

At such hearing or any adjournment thereof the commission shall carefully consider such application and shall hear such applicant by counsel or agents in support thereof and any
3130 person or corporation in person or by counsel or agents in opposition thereto and upon demand of the applicant or any person or corporation appearing in opposition, take evidence and testimony orally or by deposition in support of the application or in opposition thereto. *Same, sec. 1797-46.*

All provisions of chapter 362 of the laws of 1905,¹ or any act amendatory thereof, relating to the subpoenaing of witnesses, the production of books, documents and papers, the administration of oaths, punishment for disobedience of an order of the commission or any commissioner, or of a subpoena, or for refusal
3140 of a witness to be sworn or to testify, witness fees, the payment thereof, taking depositions, the keeping of a record of the proceedings, the taking of testimony, transcribing copies of evidence and testimony, or relating to the procedure before said commission not inconsistent with this act, shall apply to all proceedings under this act. *Same, 1797-47.*

Upon the conclusion of the hearings of said application as above provided, said commission shall carefully consider all the evidence submitted, and if the said commission, or a majority of them, shall find that the proposed railroad would be a public convenience and that a necessity requires the construction of said proposed railroad, the said railroad commission shall forthwith grant and issue to the applicant a certificate that public convenience and a necessity require the construction of said railroad as proposed. Such certificate shall be filed in the office of the secretary of state, and a copy thereof, certified to by the secretary of state, shall be evidence of the facts therein stated.
3141 Said commission shall also approve the map showing the proposed route of said railroad and shall file the same in their office. The applicant shall cause a copy of such map certified by the secretary of said commission to be a copy of the original, with the seal of said commission affixed, to be filed in the office of the register of deeds in each county in which said railroad shall be located.

¹Railroad commission law.

The filing of said certificate with the secretary of state and the filing of a copy of said map showing said proposed route as above provided, shall be a condition precedent to the right of said applicant railroad to institute and maintain condemnation proceedings for the acquirement of land for the right of way, stations and other necessary uses of said railroad. *Same, sec. 1797-48.*

If upon the conclusion of said hearing of said application said commissioners or a majority of them shall find and determine that said proposed railroad is not a necessity or is not required by public convenience either because already existing railroads or other means of transportation adequately provide for the necessities and requirements of the public, or for any other reason, **8148** then said railroad commission shall refuse to grant said certificate and shall make such refusal a matter of record in the proceedings, stating their reasons for such refusal, and shall give the applicant a copy of such refusal. If said certificate is refused no further proceedings shall be had before said railroad commission in the matter, but the application may be renewed after two years from the date of such refusal. *Same, sec. 1797-49.*

Any railroad corporation or other party in interest, having appeared before said commission upon the hearing of such application and being dissatisfied with the action of the railroad commission in granting or refusing to grant such certificate, may file written notice thereof with said commission, whereupon said commission shall immediately certify and deliver to and file with the clerk of the circuit court of Dane county the application and all maps, profiles, testimony, evidence, depositions and all other records, papers and proceedings on file in its office relating to said application and a copy of its findings and decision thereon, which shall constitute a record in said court in said manner. The party filing such written notice of dissatisfaction with the commission shall thereupon and upon such record be entitled to an order to show cause, to be granted by the presiding judge at any time within thirty days after the filing of said record with said clerk. Said order to show cause shall be served upon all per- **8149** sons and corporations who have appeared before the railroad commission in such matter in such manner as shall be prescribed by said presiding judge. Upon the hearing of such order to show cause the court shall examine said record, findings and decisions and determine the legality of the proceedings before said commission and of the order of said commission and the grounds thereof and shall have power to enter such judgment or order as

may be proper and just. An appeal from the order or judgment of the circuit court may be taken by any party aggrieved thereby to the supreme court of this state by the service of a notice of such appeal upon all parties or their attorneys who appeared in the circuit court in such matter and on the clerk of such court within thirty days from the date of the service upon such party of a copy of such order or judgment. Such appeal shall be perfected and proceedings stayed by the service and filing of an undertaking on such appeal as is now provided by law in cases of appeal from an order. *Same, sec. 1797-50.*

This section gives no power to the commission to authorize the building of a part only of a railroad which it has certified to be required by public convenience and necessity. *Eastern Ry. Co. v. McCord, 136 Wis. 249.*

Whenever an application is made by a railroad company for a certificate of public convenience and necessity, as required by this act, and it shall appear to the railroad commission after an examination of the proposed route of the applicant company that
3144 public convenience and a necessity do not require the construction of said railroad as proposed in its application, but do require the construction of a part of said proposed railroad, the said railroad commission may issue a certificate for the construction of such part of said proposed railroad as seems to them to be required by public convenience and necessity. *Same, sec. 1797-51.*

In case any railroad company hereafter obtaining a certificate from the railroad commission that public convenience and a necessity require the construction of the whole or part of its proposed railroad shall fail to begin such construction within one
3145 year from the date of the issuing of said certificate, or having begun such construction, shall fail to prosecute the same, the railroad commission may inquire into the reasons for such failure and may revoke the said certificate, if it shall appear after notice and hearing that such failure is unreasonable. *Same, sec. 1797-52.*

The provisions of this act shall apply to all steam, electric and other surface railroads in this state, except construction or
3146 extension of electric railroads in cities, and to railroads for the construction of which municipal aid has heretofore been voted and now available upon completion. *Same, sec. 1797-53.*

Under sections 1797-43 to 1797-53, the right to construct a railroad is now exclusively referable to the certificate of public convenience and necessity under these sections. *State. vs. Railroad Com., 140 Wis. 145.*

Upon receiving the certificate of public convenience and necessity, the applicant railroad shall before commencing construction of its railroad or any extension or branch thereof, submit to the railroad commission a condensed specification of the kind and character of construction that it proposes to install, which specification shall show the kind, quality and weight of the rail proposed to be used, the mode of construction, character, 3147 quality and strength of all bridges, culverts and viaducts, including abutments and approaches proposed to be built, the grade of and proposed method of draining the road-bed, and kind of power to be used and the power plant and appliances to be employed in power production, and such other salient facts relating to the construction of said proposed railroad as the commission under the rules to be prescribed by them may require. *Same, sec. 1797-54.*

Upon receiving the specification required by the foregoing section, the said railroad commission shall examine the same and shall hear the applicant railroad in support thereof, shall suggest and require modifications of said specification if in their judgment the public safety so demand, shall visit and inspect the said proposed line of railroad or extension or branch thereof, if deemed desirable, and shall otherwise investigate and determine 3148 that the proposed construction will be adequate for securing and protecting the public safety in the operation of said proposed railroad or extension or branch thereof, and thereupon the said commission shall grant to said applicant railroad an order approving said specification as amended—if the same shall be amended—and authorizing the construction of said proposed railroad or extension or branch thereof in accordance therewith. *Same, sec. 1797-55.*

See also par. 3203.

2. The Exercise of Franchise Privileges Previously Granted.

ARIZONA, CALIFORNIA

No street railroad corporation, gas, electrical, telephone or water corporation shall exercise any right or privilege under any franchise or permit heretofore granted but not 3149 heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from commission a certificate that public convenience and necessity require the exercise of such right or privilege. *Ariz.—*

Sess. Laws 1912, ch. 90, sec. 50(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 50(b).

When commission shall find, after hearing, that a public utility¹ has heretofore begun actual construction work and is prosecuting such work in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility¹ may proceed, under such rules and regulations as commission may prescribe, to the completion of such work and may, after such completion, exercise such right or privilege. *Same.*

This section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state. *Same.*

MARYLAND No gas or electrical corporation shall begin construction or exercise any right or privilege under any franchise heretofore granted but not heretofore actually exercised without first having obtained the permission and approval of commission. *Laws 1910, ch. 180, sec. 33.*

NEW HAMPSHIRE No public utility shall commence the business of transmission of telephone or telegraph messages or supplying the public with gas, electricity or water, or shall engage in such business or begin the construction of a plant, line, main or other apparatus or appliances intended to be used therein in any city or town in which at the time it shall not already be engaged in such business, or shall exercise any right or privilege under any franchise heretofore granted but not heretofore actually exercised in such town, without first having obtained the permission and approval of commission. *Laws 1911, ch. 164, sec. 13(a).*

NEW YORK No gas or electrical corporation shall exercise any right or privilege under any franchise heretofore granted but not heretofore actually exercised or the exercise of which shall have been suspended for more than one year without first having obtained the permission and approval of the proper commissions. *Laws 1910, ch. 480, sec. 68.*

OHIO No telephone company shall exercise any permit, right, license or franchise that may have been heretofore granted but not actually exercised to own or operate a plant for the furnishing of any telephone service thereunder in any munic-

¹ "Public service corporation," in Arizona.

3156 ipality or locality where there is in operation a telephone company furnishing adequate service unless such telephone company has secured from commission a certificate after public hearing of all parties interested that the exercise of such license or such permit, right or franchise is proper and necessary for the public convenience. *Laws 1911, no. 325, sec. 54.*

3. *Conditions Precedent to the Issue of Certificates.*

ARIZONA, CALIFORNIA

Before any certificate may issue under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of commission. Every applicant for a certificate shall file in the office of commission such evidence as shall be required by commission to show that such applicant has received the required consent, franchise or permit of the proper county, city and
3156 county, municipal or other public authority. Commission shall have power, after hearing, to issue such certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated street railroad, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require. *Ariz.—Sess. Laws 1912, ch. 90, sec. 50(c); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 50(c).*

If a public utility¹ desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility¹ may apply to commission for an order preliminary to the issue of the certificate. Commission may thereupon make an order declar-
3157 ing that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate upon such terms and conditions as it may designate after the public utility¹ has obtained the contemplated franchise or permit. Upon the presentation to commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility¹ commission shall thereupon issue such certificate. *Same.*

MARYLAND

Before such certificate shall be issued a certified copy of the charter of such gas or electrical corporation shall be filed in the office of commission, together with a verified

¹ "Public service corporation," in Arizona.

statement of the president and secretary of the corporation
3188 showing that it has received the required consent of the proper
municipal authorities. If the certificate of authority is refused,
no further proceedings shall be taken before commission, but a
new application may be made therefor after one year from the
date of refusal. *Laws 1910, ch. 180, sec. 33.*

NEW YORK Before such certificate shall be issued a cer-
tified copy of the charter of such gas or electrical corporation
3189 shall be filed in the office of commission together with a verified
statement of the president and secretary of the corporation
showing that it has received the required consent of the proper
municipal authorities. *Laws 1910, ch. 480, sec. 68.*

Before any such certificate shall be issued there must be
filed in the office of commission by the telegraph or telephone
3190 corporation applicant therefor a verified statement showing that
the required consent of the proper municipal authorities has
been obtained. *Same, sec. 99(1).*

WISCONSIN *See par. 3141.*

B. RELATIONS BETWEEN STATE COMMISSIONS AND MUNICIPALITIES.

CALIFORNIA Every private corporation, and every indi-
vidual or association of individuals, owning, operating, manag-
ing, or controlling any commercial railroad, interurban railroad,
street railroad, canal, pipe line, plant, or equipment, or any
part of such railroad, canal, pipe line, plant or equipment within
this state, for the transportation or conveyance of passengers,
or express matter, or freight of any kind, including crude oil,
or for the transmission of telephone or telegraph messages, or
3191 for the production, generation, transmission, delivery or fur-
nishing of heat, light, water or power or for the furnishing of
storage or wharfage facilities, either directly or indirectly, to or
for the public, and every common carrier, is hereby declared to
be a public utility subject to such control and regulation by
commission as may be provided by the legislature, and every
class of private corporations, individuals, or associations of indi-
viduals hereafter declared by the legislature to be public utilities
shall likewise be subject to such control and regulation. *Const.,
art. xii, sec. 23, as amended Oct. 10, 1911.*

Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in this state and to fix the rates to be charged for commodities furnished or
3103 services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution. *Same.*

From and after the passage by the legislature of laws conferring powers of commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal counsels, or other governing bodies of the several counties, cities and counties, cities and towns, in this state, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon commission; provided, however, that this section shall not affect such powers of control over any public utility vested in any city or county or incorporated city or town as, at an election to be held pursuant to laws to be passed hereafter by the legislature, a majority
3103 of the qualified electors voting thereon, of such city and county, or incorporated city or town, shall vote to retain, and until such election such power shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in commission as provided by law; and provided, further, that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to commission, it may, by like vote, thereafter reinvest itself with such power. *Same.*

Nothing in this section shall be construed as a limitation
3104 upon any power conferred upon commission by any provision of this constitution now existing or adopted concurrently herewith. *Same.*

This act shall not affect such powers of control over any public utility vested in any city and county or incorporated city or town as, at an election to be held pursuant to laws to be hereafter passed by the legislature, a majority of the qualified electors voting thereon of such city and county, or incor-

porated city or town, shall vote to retain, and until such election such powers shall continue unimpaired in such city and county or incorporated city or town; but if the vote so taken shall
3165 not favor the continuation of such powers they shall thereafter vest in the commission; provided, that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by a vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the commission in the manner to be prescribed by the legislature; or if such municipal corporation shall have surrendered any powers to the commission, it may, by like vote, thereafter reinvest itself with such power. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 82.*

Any city and county, or incorporated city or town, may retain its powers of control vested therein respecting any one or more classes of public utilities and may thereafter surrender such
3166 powers to the railroad commission of the state of California, hereinafter called the railroad commission, or may reinvest itself with such powers as it may have surrendered to the railroad commission, all as in this act provided. *Stats. 1911, 1st. ex. sess., ch. 40, sec. 1.*

The term "municipal corporation," as used in this act shall be construed to mean a city and county, or an incorporated city
3167 or town. The term "legislative body," as used in this act, shall be construed to mean the board of supervisors, municipal council, commission or other legislative or governing body of a municipal corporation. *Same, sec. 2.*

The terms "railroad corporation," "street railroad corporation," "common carrier," "gas corporation," "electrical corporation," "water corporation," "telephone corporation,"
3168 "telegraph corporation," "wharfinger," "warehouseman" and "public utility," as used in this act, shall severally have the same meaning as is given to them, respectively, in section two of the act known as the "public utilities act." *Same, sec. 3.*

The question whether any municipal corporation shall retain its powers of control respecting one or more classes of public utilities may be submitted to the qualified electors of such municipal corporation, as provided in this act, either at a general municipal election or at a special election held therein. Such question may be so submitted, either in pursuance of an ordinance of intention adopted by a vote of three-fifths of all the members of the legislative body of such municipal corporation, declaring

that the public interest requires the submission of, and that it is the intention of such legislative body to submit, such question to a vote of the qualified electors of such municipal corporation, or in pursuance of a petition of qualified electors of such municipal corporation, as hereinafter provided. Such ordinance of intention or such petition as the case may be, shall contain the
3100 propositions proposed to be so submitted, as set forth in section six of this act. Such petition shall be signed by qualified electors of such municipal corporation, equal in number to ten per cent. of such qualified electors, computed upon the total number of votes cast in such municipal corporation for all candidates for governor at the last preceding general election prior to the filing of such petition at which a governor was elected. But if, by the certificate of the clerk, such petition, or such petition together with a supplemental petition, is shown to be sufficient, the clerk shall forthwith present the same to the legislative body of such municipal corporation. The sufficiency or insufficiency of such petition shall not be subject to review by such legislative body. After the election held in pursuance of such petition, the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned. *Same, sec. 4.*

Upon the adoption of such ordinance of intention, or the presentation as aforesaid of such petition, as provided in section four of this act, the legislative body of such municipal corporation shall, by ordinance, order the holding of a special election for the purpose of submitting to the qualified electors of such municipal corporation the propositions set forth in such ordinance of intention or in such petition, as the case may be, which propositions shall be those set forth in section six of this act, or such legislative body shall, by ordinance, order the submission of such propositions at a general municipal election, as hereinafter provided.
3170 Such special election shall be held not less than 20 days nor more than 60 days after the adoption of the ordinance of intention provided for in section four of this act, or the presentation of such petition to said legislative body; provided, that if a general municipal election shall occur in said municipal corporation not less than 20 days nor more than 60 days after the adoption of said ordinance of intention or the presentation of said petition to said legislative body, said propositions may be submitted at such general municipal election, in the same manner as other propositions are required by law to be submitted at gen-

eral municipal elections in such municipal corporation.....

Same, sec. 5.

..... If it shall appear from the result of such election, as so declared, that a majority of the qualified electors of such municipal corporation voting on any proposition submitted, as provided in section five of this act, shall have voted to retain the powers of control of such municipal corporation respecting any particular class of public utility, such municipal corporation shall be deemed to have elected to retain such powers of control respecting such class of public utility, and such powers shall be exercised by such municipal corporation until the same may be surrendered as hereinafter provided; and if it shall appear from the result of such election, as so declared, that a majority of such qualified electors so voting on any such proposition shall have voted not to retain

2171 such powers respecting any class of public utility, such municipal corporation shall be deemed to have elected not to retain such powers of control respecting such class of public utility, and such power of control shall thereafter vest in and be exercised by the railroad commission as provided by law..... Immediately upon the filing of such certified copy of such order in the office of the railroad commission, the powers of control theretofore vested in such municipal corporation over any class or classes of public utilities which a majority of the qualified electors of such municipal corporation voting thereof shall have voted not to retain, as shown by such order, shall thereupon vest in and be exercised by the railroad commission, until such municipal corporation shall reinvest itself with such powers of control as hereinafter provided.

Same, sec. 7.

Any municipal corporation which shall have voted to retain the powers of control vested therein respecting any class or classes of public utilities, or which may have reinvested itself with

2172 such power, as hereinafter provided, may thereafter surrender its powers of control as to such class or classes of public utilities at a general municipal election or a special election therein, called for that purpose..... *Same, sec. 8.*

Any municipal corporation that shall have surrendered to the railroad commission powers of control respecting any class of public utility may thereafter reinvest itself with such powers by a vote of the qualified electors thereof taken at a general municipal election or at a special election..... The provisions of sections four, five and seven of this act, in so far as applicable, shall apply to elections called, conducted and held under the pro-

visions of this section and to general municipal elections at which such propositions shall be submitted. If it shall appear from the result of such election, declared as provided in said section seven, that a majority of the qualified electors of such municipal corporation voting on any proposition submitted as provided in this section shall have voted to reinvest such municipal corporation with powers of control respecting any particular class of public utility, such municipal corporation shall be deemed to have re-
3173 invested itself with such powers, and upon the filing in the office of the railroad commission of a certified copy of the order declaring the result of such election the powers of control with which such municipal corporation shall have voted to reinvest itself, as shown by such order, shall cease to be exercised by the railroad commission, and shall vest in and be exercised by such municipal corporation and if it shall appear from the result of such election, as declared, that a majority of the qualified electors of such municipal corporation voting on any such proposition, as provided in this section, shall have voted not to reinvest such municipal corporation with powers of control respecting any particular class of public utility, such powers of control shall continue in and be exercised by the railroad commission; provided, that such municipal corporation may thereafter reinvest itself with such powers of control at any subsequent election at which such question may be again so submitted under the provisions of this act. *Same, sec. 9.*

The holding of a special election or elections, or the submission of propositions at any general municipal election, under any of the provisions of this act, shall not be construed to preclude the holding of a subsequent special election or elections or
3174 the subsequent submission of propositions at a general municipal election or elections, on the question of the retention, surrender or reinvestment by a municipal corporation of its powers of control respecting any class or classes of public utilities, as in this act provided; provided, that no more than one such special election shall be held within any period of 12 months. *Same, sec. 10.*

GEORGIA

See par. 255.

KANSAS

The power and authority to control and regulate all public utilities and common carriers situated and operated
3175 wholly or principally within any city or principally operated for the benefit of such city or its people shall be vested exclusively in such city subject only to the right to apply for relief to commission. *Laws 1911, ch. 238, sec. 3.*

A public utility which owns or operates a separate equipment, plant or machinery for any of the specified purposes in two or more cities is not within this exception. *State vs. Wyandotte County Gas Company, Supreme Court of Kansas, no. 18221, November, 1912.*

Every municipal council or commission shall have the power and authority, subject to any law in force at the time, to contract with any public utility or common carrier, situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, by ordinance or resolution, duly considered and regularly adopted: (1) As to the quality and character of each kind of product or service to be furnished or rendered by any public utility or common carrier, and the maximum rates and charges to be paid therefor to the public utility or common carrier furnishing such product or service within said municipality, and the terms and conditions, not inconsistent with this act or any law in force at the time, under which such public utility or common carrier may be permitted to occupy the streets, highways or other public property within such municipality. (2) To require and permit any public
8176 utility or common carrier to make such additions or extensions to its physical plant as may be reasonable and necessary for the benefit of the public, and may designate the location and nature of such additions and extensions and the time within which such shall be completed, and the terms and conditions under which the same shall be constructed. (3) To provide a reasonable and lawful penalty for the non-compliance with the provision of any ordinance or resolution adopted in pursuance with the provisions hereof; provided, however, that no ordinance or resolution granting or extending any right, privilege or franchise shall be in force or effect until 30 days after the same shall have been duly published; nor if any complaint be made, as hereinafter provided for, shall said ordinance or resolution be in effect while any proceedings to review before said commission or action or appeal in any court in relation thereto shall be pending. *Same, sec. 33.*

Upon any complaint being made, within 15 days after the publication of any such ordinance or resolution, to the commission by any such public utility or common carrier, or by ten or more taxpayers of any such municipality a bond to pay the costs of the hearing having first been filed by the complainant with and approved by the said commission, that any right, privilege or franchise granted, or ordinance or resolution or part of any

ordinance or resolution adopted, by any municipal council or commission is unreasonable, or against public policy, or detrimental to the best interests of the city, or contrary to any provisions of law, the commission shall set a date for the hearing of such complaint, not less than ten days after date of filing thereof, and shall cite the parties interested to appear on the date named, which date shall be not less than ten days after the fixing of the date of the hearing, and on that date, or at a time agreed upon by the interested parties, or a date fixed by the commission, the complainant shall present such evidence as they or it may have in support thereof, and show why such complaint should be sustained, and the commission may inquire into the allegations in such complaint, and may subpoena witnesses, and take testimony to ascertain the truth of the allegations contained therein in contemplation of bringing an action as hereinafter provided; and if said commission shall find that any provision of any such ordinance or resolution is unreasonable, or against the public welfare or public interest, or has reason to believe that the same may be contrary to law, said commission shall within ten days advise and recommend such changes in the ordinance or resolution as may be necessary to meet the objections set forth in the complaint and protect the public interest, and to remove any unreasonable provision therefrom; and if such municipal council or commission shall not within 20 days thereafter amend such ordinance or resolution to conform to the recommendations of said commission, the commission may, in the name of the state of Kansas, within 30 days after such finding, commence proceedings against such municipal council or commission and common carrier or public utility in any court of competent jurisdiction, to set aside any ordinance or resolution, or part thereof, because of its unreasonableness or illegality, or because the same is not for the promotion of the welfare and best interests of said municipality, which action and proceedings shall be in conformity with the provisions of this act. *Same.*

KENTUCKY

See par. 1187.

MAINE

Said street railroads shall be constructed and maintained in such form and manner, and with such rails and upon such grade as the municipal officers of the cities and towns where the same are located may direct, and whenever in the judgment of such corporation it shall be necessary to alter the grade of any city, town or county road, said alterations shall be made at the sole expense of said corporation with the assent and

in accordance with the directions of said municipal officers. The said corporation may at any time appeal from the decisions of such municipal officers determining the form and manner of the construction and maintenance of its railroad and the kind of rail to be used, to the commission who shall upon notice hear the parties and finally determine the questions raised by said appeal. *Rev. Stats. 1903, ch. 53, sec. 19.*

The municipal officers of any town may make at all times such regulations as to the mode of use of tracks of any street railroad, the sprinkling and watering in cities by any street railroad of the space between and one foot beyond the outer rails of said tracks for the purpose of laying the dust, the rate of speed
3179 and the removal and disposal of snow and ice from the streets, roads and ways, by any street railroad corporation, as the public safety and convenience may require. Any street railroad corporation may appeal from the decision of such municipal officers making any regulation under this section to the commission, who shall upon notice hear the parties and finally determine the questions raised by said appeal. *Same, sec. 25.*

NEVADA

See par. 304.

NEW JERSEY

No privilege or franchise hereafter granted to any public utility by any political subdivision of this state shall be valid until approved by commission, such approval to be given when, after hearing, commission determines that such
3180 privilege or franchise is necessary and proper for the public convenience and properly serves the public interests, and commission shall have power in so approving to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require. *Laws 1911, ch. 195, sec. 24.*

NEW YORK

If in any city of the first or second class there now exists or shall hereafter be created a board, body or officer having jurisdiction of matters pertaining to gas or electric
3181 service, such board, body or officer shall have and may exercise such power, jurisdiction and authority in enforcing the laws of the state and the orders, rules and regulations of the commission as may be prescribed by statute or by the commission. *Laws 1910, ch. 480, sec. 77.*

OHIO

Any municipal corporation in which any public utility is established may by ordinance at any time within one year before the expiration of any contract entered into under

the provisions of sections 3644, 3982 and 3983 of the general code between the municipality and such public utility with respect to the rate, price, charge, toll or rental to be made, charged, demanded, collected or exacted for any commodity, utility or service by such public utility or at any other time authorized by law proceed to fix the price, rate, charge, toll or rental that such public utility may charge, demand, exact or collect therefor for an ensuing period as provided in said sections. *Laws 1911, no. 325, sec. 46.*

Thereupon commission upon complaint in writing of such public utility or upon complaint of one per cent. of the electors of such municipal corporation, which complaint shall be filed within 60 days after the passage of such ordinance, shall give 30 days' notice of the filing and pendency of such complaint to the public utility, and the mayor of such municipality of the time and place of the hearing thereof and which shall plainly state the matters and things complained of. *Same.*

If any public utility shall have accepted any rate, price, charge, toll or rental fixed by ordinance of such municipality the same shall become operative unless within 60 days after such acceptance there shall have been filed with commission a complaint signed by not less than three per cent. of the qualified electors of such municipality. Upon such filing commission shall forthwith give notice of the filing and pendency of such complaint to the mayor of such municipality and fix a time and place for the hearing thereof. Commission shall at such time and place proceed to hear such complaint and may adjourn the hearing thereof from day to day. *Same.*

The filing of the complaint by a public utility, as herein provided, shall be taken and held to be the consent of such public utility to continue to furnish its product or service and devote its property engaged therein to such public use during the term so fixed by ordinance, or by the provisions of this act. Parties thereto shall be entitled to be heard represented by counsel and to have process to force the attendance of witnesses. *Same.*

No such complaint or appeal to commission shall suspend, vacate or set aside the rate, price, charge, toll, or rental fixed by ordinance unless such public utility shall elect to charge the rate, price, charge, toll or rental in force and effect immediately prior to the taking effect of the regulation complained of and appealed from and shall give an undertaking in such amounts as commission shall determine. The undertaking shall be filed with com-

3106 mission and shall be payable to the state of Ohio for the use and benefit of the consumers affected by the regulation in question. The condition of the undertaking shall be that such public utility shall refund to each of its consumers, public or private, the amount collected by it in excess of the amount which shall finally be determined it was authorized to collect from such consumers. Commission shall make all necessary orders in respect to the form of such undertaking and the manner of making such refunders. *Same, sec. 47.*

If commission after such hearing shall be of the opinion that the rate, price, charge, toll or rental so fixed by ordinance is or will be unjust or unreasonable or insufficient to yield reasonable compensation for the service, commission shall fix and determine the just and reasonable rate, price, charge, toll or rental to be 3107 charged, demanded, exacted or collected by such public utility during the periods so fixed by ordinance, which shall not be less than two years, and order the same substituted for the rate, price, charge, toll or rental so fixed by ordinance, or commission may find and declare that the rate, price, charge, toll or rental so fixed by ordinance is just and reasonable, and ratify and confirm the same. *Same, sec. 48.*

No such rate, price, charge, toll or rental so determined by commission shall become effective or valid until after commis- 3108 sion shall have ascertained and determined the valuation upon which such price, charge, toll or rental is based as provided in this act. And such valuation so determined shall be at all time open to public inspection. *Same.*

Thereupon commission shall make inquiry and investigation with respect to the ability of such public utility to furnish its product during such period. If it be found that it is able so to do com- 3109 mission shall order the public utility in question to continue to furnish the same for the period and at the rate, price, charge, toll or rental so fixed and determined, and such public utility shall continue to furnish its product as provided in such order. *Same.*

This act shall not apply to any rate, fare or regulation now or hereafter prescribed by any municipal corporation granting a right, permission, authority or franchise to use its streets, 3190 alleys, avenues or public places, for street railway or street railroad purposes, or to any prices so fixed under sections 3644, 3982 and 3983 of the general code, except as provided in sections 46, 47 and 48 of this act. *Same, sec. 49.*

The council of any municipality shall have the power

upon filing of an application therefor by any person, firm or corporation, to require of any public utility, by ordinance or otherwise, such additions or extensions to its distributing plant within such municipality as shall be deemed reasonable and necessary in the interest of the public, and subject to the provisions of section 9105 of the general code to designate the location and nature of all such additions and extensions, the time
8191 within which they must be completed, and all conditions under which they must be constructed and operated. Such requirements and orders of the council shall be subject to review by commission. The council and commission in determining the practicability of such additions and extensions, shall take into consideration the supply of the product furnished by such public utility available, and the returns upon the cost and expense of constructing said extension and the amount of revenue to be derived therefrom, as well as the earning power of the public utility as a whole. *Same, sec. 53.*

OREGON

Every municipality shall have power: (1) To determine by contract, ordinance or otherwise the quality and character of each kind of product or service to be furnished or rendered by any public utility furnishing any product or service within said municipality and all other terms and conditions not inconsistent with this act upon which such public utility may be permitted to occupy the streets, highways or other public property within such municipality, and such contract, ordinance or other determination of such municipality, shall be in force and prima facie reasonable. Upon complaint made by such public utility or by any qualified complainant as provided in section 41, the commission shall set a hearing as provided in section 42 and if it shall find such contract, ordinance or other determination to be unreasonable, such contract, ordinance or other determination shall be void; provided, however, that no ordinance or other municipal regulation shall be reviewed by
8192 the commission under the provisions of this section which was prior to such review enacted by the initiative or which was prior to such review referred to and approved by the people of said municipality, or while a referendum thereon is pending. (2) To require of any public utility by ordinance or otherwise such modifications, additions and extensions to its physical equipment, facilities or plant or service within said municipality as shall be reasonable and necessary in the interest of the public, and to designate the location and nature of all such additions and

extensions, the time within which they must be completed, and all conditions under which they must be constructed subject to review by the commission as provided in this section. (3) To provide for a penalty for non-compliance with the provisions of any ordinance or resolution adopted pursuant to the provisions hereof. (4) The power and authority granted in this section shall exist and be vested in said municipalities, anything in this act to the contrary notwithstanding. *Gen. Laws 1911, ch. 279, sec. 61.*

RHODE ISLAND Every franchise granted to any public utility by any town or city and all contracts, ordinances, rules, regulations and orders entered into or made by any town or city regulating the use and enjoyment of rights and franchises granted to any public utility under the provisions of any general or special
§199 law, shall be subject to the continuing control of the commission in the exercise of the powers enumerated in this act, and during the existence thereof, every such franchise, contract, ordinance, rule, regulation and order shall be deemed to include, and be subject to, the exercise by the commission of any and all of the powers of regulation provided for in this act. *Acts 1912, ch. 795, sec. 51.*

The use and enjoyment of all rights and franchises granted under the provisions of this chapter shall be subject to such reasonable rules and regulations and orders, controlling the extent and quality of construction and service to be maintained by the corporation to which such rights are granted, and prescribing the location and arrangement of its tracks, poles, wires or conduits, and their appurtenances, as are, or may be from time to time, enacted by the town or city councils. In case any such
§194 regulation or enactment shall seem to any such corporation to be unreasonable, such corporation, within 30 days after the same has been passed, may complain to the commission setting forth that such regulation or order is not reasonable in the premises; and thereupon said commission shall proceed to hear and determine the matter in accordance with the provisions of the public utilities act; subject, however, to the right of appeal to the supreme court therein contained. *Gen. Laws, ch. 91, sec. 5, as amended by Acts 1912, ch. 795, sec. 52.*

VERMONT Nothing in this act or previous statutes shall be construed as giving the public service commission power to prevent or restrict competition or limit the number of persons
§196 or companies who may engage in the business of furnishing light,

heat, power, or any other business subject to supervision under the provisions of this act in any town. *Acts 1908, no. 116, sec. 23.*

See also par. 3130.

WASHINGTON *See par. 1044.*

WISCONSIN Every municipal council shall have power:

(1) To determine by contract, ordinance or otherwise the quality and character of each kind of product or service to be furnished or rendered by any public utility furnishing any product or service within said municipality and all other terms and conditions not inconsistent with this act upon which such public utility may be permitted to occupy the streets, highways or other public property within such municipality and such contract, ordinance or other determination of such municipality shall be in force and prima facie reasonable. Upon complaint made by such public utility or by any qualified complainant as provided in section 1797m-43, the commission shall set a hearing as provided in sections 1797m-45 and 1797m-46, and if it shall find such **§196** contract, ordinance or other determination to be unreasonable, such contract, ordinance or other determination shall be void.

(2) To require of any public utility by ordinance or otherwise such additions and extensions to its physical plant within said municipality as shall be reasonable and necessary in the interest of the public, and to designate the location and nature of all such additions and extensions, the time within which they must be completed and all conditions under which they must be constructed subject to review by the commission as provided in subdivision 1 of this section. (3) To provide for a penalty for non-compliance with the provisions of any ordinance or resolution adopted pursuant to the provisions hereof. (4) The power and authority granted in this section shall exist and be vested in said municipalities anything in this act to the contrary notwithstanding. *Laws 1907, ch. 499, sec. 1797m-87.*

See also pars. 2494, 3206, 3209, 3211, 3215, 3216, 3226, 3228, 3233.

C. INDETERMINATE FRANCHISES AND RIGHT OF MUNICIPALITY TO PUR- CHASE.

MASSACHUSETTS If, when a city or town votes to establish a municipal lighting plant, any person or corporation engaged at the time of the first vote required by sections two and three of this chapter in the business of generating or distributing gas or electricity for sale for lighting purposes in such city or town shall elect to sell in the manner hereinafter provided, the city or town shall purchase of him or it such portion of his or its plant and property within the limits of such city or town as is suitable for and is used in connection with such business. Such purchase shall be required to include both a gas and electric lighting plant only if a single corporation owns or operates both such plants. If the main gas works or the central electric lighting station lie within the city or town limits, such city or town shall purchase the whole of such plant and the property used in connection therewith, lying within such limits, at its fair market value for the purposes of its use; but no portion of such plant shall be estimated at less than its fair market value for any other purpose, including, as an element of value (locations or similar rights and) the damages, if any, caused by the severance of any portion of such plant lying outside such city or town limits, if they are not purchased by the city or town, and excluding any mortgage or other encumbrance or lien to which such plant or any part thereof may be subject at the time of such purchase. The city or town may require the plant and property to be transferred to it free of any mortgage or lien unless the commissioners appointed under the provisions of the

§197 following section otherwise determine. Such value shall be estimated without enhancement on account of future earning capacity or good will or of exclusive privileges derived from rights in the public streets. If the main gas works or central electric lighting stations of such plant lie without the city or town limits, the city or town shall purchase only that portion of the plant or property within its limits, estimating its value as above provided, but without allowance of damages on account of severance of plant. No city or town shall be required to buy any apparatus or appliances which are covered by letters patent of the United States or embody a patentable invention unless a

complete right to use the same and all other apparatus or appliances necessary for its use, to such extent as such city or town shall reasonably require, shall be assigned or granted to it at a cost as low as it would be to the person or corporation whose plant is purchased. No city or town shall be required to buy any property unnecessarily added to a plant after the passage of its first vote under the provisions of sections two or three, nor any property except such as would be suitable for the ordinary business of the vendor. If any property or plant which the city or town would be entitled or required to buy would not be available to it if purchased, by reason of liens, interests of third parties, private contracts or other causes whereby the city or town would be at a greater disadvantage in its use than the vendor, it may be released from buying the same, or it may be allowed an equitable discount from the purchase price as the commissioners provided for in the following section determine.

Rev. Laws 1902, ch. 34, sec. 10.

The owner of any plant for the manufacture or distribution of gas or electricity for light, heat or power in the city or town, who desires to sell the same under the provisions of this chapter, shall within 60 days after the passage of the final vote of the city or town required by section three of this chapter, file with the clerk of the city or town a good and sufficient conveyance duly executed of such parts of his plant as defined in section ten of this chapter as he desires to sell, together with a detailed schedule of the plant included in the conveyance and a statement of the price which he is willing to accept in payment for the same. Upon the filing of this conveyance the property thereby conveyed shall vest in the city or town, which shall be entitled to the immediate possession and use of the property conveyed; and the owner shall surrender possession of
3198 the same upon request. A city by vote of the city council, and a town by vote of the selectmen, may agree with the owner upon the price to be paid for the plant conveyed; but said agreement as to price shall not be binding in towns until ratified by a majority vote at a town meeting called for action thereon; but if the city or town does not agree with the owner as to such price, or notifies him within 30 days after the filing of the conveyance that it is dissatisfied with the contents thereof, either as including property which ought not to have been included or as not including property which ought to have been included, either party may, within 60 days after the filing of the convey-

ance, apply to the supreme judicial court for the county in which the city or town is situated for the appointment of commissioners to determine what property ought to have been included in the conveyance and the value thereof. *Same, sec. 11, as amended by Acts 1905, ch. 410, sec. 1.*

3199 If a city or town acquires a gas or electric lighting plant, the right of any person or corporation from whom such plant was acquired to manufacture and distribute gas or electricity within its limits shall cease. *Same, sec. 17.*

3200 No city or town having within its limits the main gas works or the central electric lighting station, or the major portion of the wires, poles, conduits or pipes used in connection with any such works or plants, shall, except for a violation of the terms or conditions upon which the same were granted or for a violation of law respecting the exercise thereof, revoke any rights granted to any person or corporation engaged in the business of manufacturing or distributing gas or electricity for sale for lighting purposes, after the introduction of the first vote authorizing the establishment of a municipal lighting plant in a city council under the provisions of section two or after the calling of a town meeting under a warrant including an article on the passage of such vote, until the proceedings so begun have been finally determined by granting or denying authority to establish such plant. After the passage and ratification of both votes required by sections two or three, no city or town, except as hereinbefore provided, shall revoke any rights, locations or licenses granted to any such person or corporation. *Same, sec. 31.*

WISCONSIN

No license, permit or franchise shall be granted to any person, copartnership or corporation to own, operate, manage or control any plant or equipment for the production, transmission, delivery or furnishing of heat, light, water or power in any municipality, where there is in operation under an indeterminate permit, as provided in this act, a public utility engaged in similar service, and no telephone exchange for furnishing local service to subscribers within any village or city shall be installed in such village or city by any public utility, other than those already furnishing such telephone service therein, where there is in operation in such village or city a public utility engaged in similar service, without first securing 3301 from the commission a declaration after a public hearing of all parties interested, that public convenience and necessity require

such second public utility. This subsection shall not prevent or impose any condition upon the extension of any telephone line from any town into or through any city or village for the purpose of connecting with any telephone exchange in such city or village or connecting with any other telephone line or system. Any public utility operating any telephone exchange in any city or village shall, on demand, extend its lines to the limits of such city or village for the purposes mentioned and subject to the conditions and requirements prescribed in section 1797m-4 and 1797m-30. *Laws 1907, ch. 499, sec. 1797m-74(1), as amended by Laws 1911, ch. 546.*¹

Any existing permit, license or franchise which shall contain any term whatsoever interfering with the existence of such
3202 second public utility is hereby amended in such a manner as to permit such municipality to grant an indeterminate permit for the operation of such second public utility pursuant to the provisions of this act. *Laws 1907, ch. 499, sec. 1797m-74(2).*

No municipality shall hereafter construct any such plant or equipment where there is in operation under an indeterminate permit as provided in this act, in such municipality a public utility engaged in similar service, without first securing from
3203 the commission a declaration, after a public hearing of all parties interested, that public convenience and necessity require such municipal public utility. But nothing in this section shall be construed as preventing a municipality acquiring any existing plant by purchase or by condemnation as hereinafter provided. *Same, sec. 1797m-74(3).*

Nothing in this section shall be construed so as to prevent the granting of an indeterminate permit or the construction of
3204 a municipal plant where the existing public utility is operating without an indeterminate permit as provided in this act. *Same, sec. 1797m-74(4).*

No license, permit or franchise to own, operate, manage or control any plant or equipment for the production, transmission,
3205 delivery or furnishing of heat, light, water or power shall be hereafter granted, or transferred except to a corporation duly organized under the laws of the state of Wisconsin. *Same, sec. 1797m-75.*

¹ All licenses, permits and franchises to own, operate, manage, or control any plant or equipment for the production, transmission, delivery, or furnishing of heat, light, water, or power in any municipality, heretofore granted or attempted to be granted to any public utility by or by virtue of any ordinance pending or under consideration in the municipal council of any municipality at the time of the obtaining of an indeterminate permit by any other public utility operating therein, are hereby validated and confirmed and shall not be affected by the provisions of subsection 1 of section 1797m-74 of the statutes. *Laws 1911, ch. 14, sec. 1.*

Every license, permit or franchise hereafter granted to any public utility shall have the effect of an indeterminate permit subject to the provisions of this act, and subject to the provision that the municipality in which the major part of its property is situate may purchase the property of such public utility actually used and useful for the convenience of the public at any time as provided herein paying therefor just compensation to be determined by the commission and according to the terms and conditions fixed by said commission. Any such municipality is authorized to purchase such property and every such public utility is required to sell such property at the value and according to the terms and conditions determined by the commission as herein provided. *Same, sec. 1797m-76.*

Every license, permit, or franchise granted prior to July 11, 1907, by the state or by the common council, the board of aldermen, the board of trustees, the town or village board, or any other governing body of any town, village, or city, to any corporation, company, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever, authorizing and empowering such grantee or grantees to own, operate, manage or control any plant or equipment, or any part of a plant or equipment within this state, for the conveyance of telephone messages, or for the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly, to or for the public, is so altered and amended as to constitute and to be an "indeterminate permit" within the terms and meaning of sections 1797m-1 to 1797m-108, inclusive, of the statutes of 1898, and subject to all the terms, provisions, conditions, and limitations of said sections 1797m-1 to 1797m-108, inclusive, and shall have the same force and effect as a license, permit, or franchise granted after July 11, 1907, to any public utility embraced in and subject to the provisions of said sections 1797m-1 to 1797m-108, inclusive, except as provided by section 1797m-80. *Same, sec. 1797m-77, as amended by Laws 1909, ch. 180, and Laws 1911, ch. 596.*

No franchise heretofore surrendered by any corporation of this state in the manner and within the time provided by section 1797m-77, and no indeterminate permit based thereon, shall be declared invalid by reason of any defect, irregularity, or invalidity in such franchise whatsoever, provided that such franchises shall not have been obtained by fraud, bribery, or corrupt practices; that when such franchise was granted no officer of the municipality granting the same was directly or indirectly interested in such franchise or in the corporation obtaining same; and that the corporation having the same shall have prior to the surrendering of said franchise in good faith purchased or constructed any street or interurban railway, water works, gas or electric light plant, or other public utility or any part thereof by such franchise authorized; and subject to the foregoing exceptions, every such franchise and permit is hereby legalized and confirmed. *Laws 1911, ch. 217, sec. 1.*

Any public utility accepting or operating under any license, permit or franchise hereafter granted shall, by acceptance of any such indeterminate permit be deemed to have consented to a future purchase of its property actually used and useful for the convenience of the public by the municipality in which the major
3309 part of it is situate for the compensation and under the terms and conditions determined by the commission, and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the verdict of a jury, and to have waived all other remedies and rights relative to condemnation, except such rights and remedies as are provided in this act.
Laws 1907, ch. 499, sec. 1797m-78.

Any municipality shall have the power, subject to the provisions of this act, to construct and operate a plant and equip-
3310 ment or any part thereof for the production, transmission, delivery, or furnishing of heat, light, water or power. *Same, sec. 1797m-79(1).*

Any municipality shall have the power, subject to the provisions of this act, to purchase by an agreement with any public
3311 utility any part of any plant, provided, that such purchase and the terms thereof shall be approved by the commission after a hearing as provided in sections 1797m-81 and 1797m-82.
Same, sec. 1797m-79(2).

Any municipality shall have the power, subject to the provisions of this act to acquire by condemnation the property of any public utility actually used and useful for the convenience of
3312 the public then operating under a license, permit or franchise existing at the time this act takes effect, or operating in such municipality without any permit or franchise. *Same, sec. 1797m-79(3).*

Any municipality shall have the power, subject to the provisions of this act, to acquire by purchase as provided in this
3313 act, the property of any public utility actually used and useful for the convenience of the public operating under any indeterminate permit as provided herein. *Same, sec. 1797m-79(4).*

If the municipality shall have determined to acquire an existing plant then operated under . . . an indeterminate permit provided in section 1797m-77, by a vote of a majority of the electors voting thereon at any general, municipal, or special election at which the question of the purchase of such plant shall have been submitted, such municipality shall bring an action in the circuit court against the public utility as defendant praying

the court for an adjudication as to the necessity of such taking
3214 by the municipality, in which action the complaint shall be served
with the summons. The public utility shall serve and file its
answer to such complaint within ten days after the service thereof,
whereupon such action shall be at issue and stand ready for trial
upon ten days' notice by either party. Unless the parties
thereto waive a jury, the question as to the necessity of the
3215 taking of such property by the municipality shall be as speedily
as possible submitted to a jury. *Same, sec. 1797m-80, as
amended by Laws 1909, ch. 213 and Laws 1911, ch. 596.*

If the municipality shall have determined to acquire an
existing plant in the manner provided in the preceding section, and
the public utility owning such plant shall have consented to the
taking over of such plant by the municipality by acceptance of an
indeterminate permit as provided herein, or, in case such public
3215 utility shall not have waived or consented to such taking, if the
jury shall have found that a necessity exists for the taking of
such plant, then the municipality shall give speedy notice of such
determination and of such consent or such verdict of a jury to
the public utility and to the commission. *Laws 1907, ch. 499,
sec. 1797m-81, as amended by Laws 1909, ch. 213.*

The commission shall thereupon proceed to set a time and
place for a public hearing upon the matters of the just compen-
sation to be paid for the taking of the property of such public
utility actually used and useful for the convenience of the public,
and of all other terms and conditions of the purchase, and sale,
and shall give to the municipality and the public utility in-
terested, not less than thirty days' notice of the time and place
when and where such hearing will be held, and such matters con-
sidered and determined, and shall give like notice to all bond-
holders, mortgagees, lienors, and all other persons having or
claiming to have any interest in such public utility, by publica-
tion of such notice once a week for not less than three successive
weeks in at least one newspaper of general circulation printed
in the English language and published in the county in which
such public utility is located, which publication shall be caused
3216 to be made by the municipality. Within a reasonable time,
not exceeding one year, after the time fixed for such hearing in
such notice, the commission shall, by order, fix and determine and
certify to the municipal council, to the public utility and to any
bondholder, mortgagee, lienor or other creditor appearing upon
such hearing, just compensation to be paid for the taking of the

property of such public utility actually used and useful for the convenience of the public and all other terms and all conditions of sale and purchase which it shall ascertain to be reasonable. The compensation and other terms and the conditions of sale and purchase thus certified by the commission shall constitute the compensation and terms and conditions to be paid, followed, and observed in the purchase of such plant from such public utility. Upon the filing of such certificate with the clerk of such municipality the exclusive use of the property taken shall vest in such municipality. *Laws 1907, ch. 499, sec. 1797m-82, as amended by Laws 1911, ch. 662.*

Any public utility or the municipality or any bondholder, mortgagee, lienor or other creditor of the public utility, being dissatisfied with such order, may commence and prosecute an
3217 action in the circuit court to alter or amend such order or any part thereof, as provided in sections 1797m-64 to 1797m-73, inclusive, and said sections so far as applicable shall apply to such action. *Laws 1907, ch. 499, sec. 1797m-83, as amended by Laws 1911, ch. 662.*

If the plaintiff shall not establish to the full satisfaction of the court that the compensation fixed and determined in such order is unlawful or that some of the terms or conditions fixed
3218 and determined therein are in some particulars unreasonable, the compensation, terms and conditions fixed in said order shall be the compensation, terms and conditions to be paid, followed and observed in the purchase of said plant from such public utility. *Laws 1907, ch. 499, sec. 1797m-84.*

If the plaintiff shall establish to the full satisfaction of the court and the court shall adjudge that such compensation is unlawful or that some of such terms or conditions are unreasonable,
3219 able, the court shall remand the same to the commission with such findings of fact and conclusions of law as shall set forth in detail the reasons for such judgment and the specific particulars in which such order of the commission is adjudged to be unreasonable or unlawful. *Same, sec. 1797m-85.*

If the compensation fixed by the previous order of the commission be adjudged to be unlawful, the commission shall forth-
3220 with proceed to set a re-hearing for the re-determination of such compensation as in the first instance. *Same, sec. 1797m-86(1).*

The commission shall forthwith otherwise alter and amend
3221 such previous order with or without a re-hearing as it may deem

necessary so that the same shall be reasonable and lawful in every particular. *Same, sec. 1797m-86(2).*

3222 The term "municipal council" as used in this act shall mean and embrace the common council, the board of aldermen, the board of trustees, the town or village board, or any other governing body of any town, village or city wherein the property of a street railway company or any part thereof is located. *Laws 1907, ch. 578, sec. 1797t-1(1).*

3223 The term "municipality" as used in this act shall mean any town, village or city wherein property of a street railway company or any part thereof is located. *Same, sec. 1797t-1(2).*

3224 The term "indeterminate permit" as used in this act shall mean and embrace every grant, directly or indirectly from the state, to any street railway company, of power, right or privilege to own, operate, manage or control any street railway plant or equipment or any part thereof within this state, which shall continue in force until such time as the municipality shall exercise its option to purchase as provided in this act or until it shall be otherwise terminated according to law. *Same, sec. 1797t-1(3).*

3225 The term "commission" as used in this act shall mean the railroad commission of Wisconsin. *Same, sec. 1797t-1(4).*

3226 Every license, permit or franchise hereafter granted to any street railway company shall have the effect of an indeterminate permit subject to the provisions of this act, and subject to the provision that the municipality in which the major part of its property is situated may purchase the property of such street railway company actually used and useful for the convenience of the public at any time as provided herein, paying therefor just compensation to be determined by the commission and according to the terms and conditions fixed by said commission. Any such municipality is authorized to purchase such property, and every such street railway company is required to sell such property at the compensation and according to the terms and conditions determined by the commission as herein provided. *Same, sec. 1797t-2.*

3227 Any street railway company operating under an existing license, permit or franchise shall, upon filing at any time prior to the expiration of such license, permit or franchise, with the clerk of the municipality which granted such franchise and with the commission, a written declaration legally executed that, it surrenders such license, permit or franchise, receive by operation of law in lieu thereof, an indeterminate permit as provided

in this act; and such street railway company shall hold such permit under all the terms, conditions and limitations of this act. The filing of such declaration shall be deemed a waiver by such street railway company of the right to insist upon the fulfillment of any contract theretofore entered into relating to any rate, fare, charge or service regulated by sections 1797-1 to 1797-38 of the statutes, as amended. *Same, sec. 1797-3.*

Any street railway company accepting or operating under any license, permit or franchise hereafter granted, except where such license, permit or franchise is for an extension of any line or system constructed or authorized at the time this act shall go into effect, and which license, permit or franchise for such extension shall expire at the same date as the license, permit or franchise under which such line or system is then being operated, shall, by acceptance of any such indeterminate permit be deemed
3228 to have consented to a future purchase of its property actually used and useful for the convenience of the public, by the municipality in which the major part of it is situate for the compensation and under the terms and conditions determined by the commission, and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the verdict of a jury, and to have waived all other remedies and rights relative to condemnation by such municipality, except such rights and remedies as are provided in this act. *Same, sec. 1797-4.*

At any time within three years prior to the expiration of the term of the license, permit or franchise under which any street railway is operating at the time this act goes into effect, any
3229 municipality shall have the power, subject to the provisions of this act, to acquire by condemnation the property of any street railway company, actually used and useful for the convenience of the public. *Same, sec. 1797-5(1).*

Any municipality shall have the power, subject to the provisions of this act, to acquire by purchase as provided in this act,
3230 the property of any street railway company actually used and useful for the convenience of the public operating under any indeterminate permit as provided herein. *Same, sec. 1797-5(2).*

If the municipality shall have determined to acquire an existing plant then operated under a license, permit or franchise existing at the time this act takes effect, such municipality shall bring an action in the circuit court against the street railway company as defendant praying the court for an adjudication as

to the necessity of such taking by the municipality, in which
3231 action the complaint shall be served with the summons. The
street railway company shall serve and file its answer to such
complaint within ten days after the service thereof; whereupon
such action shall be at issue and stand ready for trial upon ten
days' notice by either party. All such actions shall have pre-
cedence over any civil cause of a different nature pending in such
court. *Same, sec. 1797t-6.*

If the municipality shall have determined to acquire an
existing plant and the street railway company owning such
plant shall have consented to the taking over of such plant by
the municipality by acceptance of an indeterminate permit as
3232 provided herein; or, in case such street railway company shall not
have consented to such taking if the jury shall have found that a
necessity exists for the taking of such plant, then the municipality
shall give speedy notice of such determination and of such con-
sent or such verdict of a jury to the street railway company and
to the commission. *Same, sec. 1797t-7.*

The commission shall thereupon after public hearing and
within three months from the receipt of such notice and upon
notice to the municipality and the street railway company in-
terested, by order fix and determine and certify to the municipal
council and to the street railway company, just compensation to
be paid for the taking of the property of such street railway
company actually used and useful for the convenience of the
3233 public, and all other terms and all conditions of sale and pur-
chase which it shall ascertain to be reasonable. The compen-
sation and other terms and the conditions of sale and purchase
thus certified by the commission shall constitute the compen-
sation and terms and conditions to be paid, followed and ob-
served in the purchase of such plant from such street railway
company upon the filing of such certificate with the clerk of such
municipality, the exclusive use of the property taken shall vest
in such municipality. *Same, sec. 1797t-8.*

Any street railway company or the municipality being dis-
satisfied with such order, may commence and prosecute an action
3234 in the circuit court to alter or amend such order or any part
thereof as provided in sections 1797m-64 to 1797m-73 inclusive
of the statutes, and said sections so far as applicable shall apply
to such action. *Same, sec. 1797t-9.*

If the plaintiff shall not establish to the full satisfaction of
the court that the compensation fixed and determined in such

order is unlawful or that some of the terms or conditions fixed and
3235 determined therein are in some particulars unreasonable, the
compensation, terms and conditions fixed in said order shall be
the compensation, terms and conditions to be paid, followed and
observed in the purchase of said plant from such street railway
company. *Same, sec. 1797t-10.*

If the plaintiff shall establish to the full satisfaction of the
court and the court shall adjudge that such compensation is un-
lawful or that some of such terms or conditions are unreasonable,
3236 the court shall remand the same to the commission with such
findings of fact and conclusions of law as shall set forth in detail
the reasons for such judgment and the specific particulars in
which such order of the commission is adjudged to be unreason-
able or unlawful. *Same, sec. 1797t-11.*

If the compensation fixed by the previous order of the com-
3237 mission be adjudged to be unlawful, the commission shall forth-
with proceed to set a re-hearing for the re-determination of such
compensation as in the first instance. *Same, sec. 1797t-12(1).*

The commission shall forthwith otherwise alter and amend
3238 such previous order with or without a re-hearing as it may deem
necessary, so that the same shall be reasonable and lawful in
every particular. *Same, sec. 1797t-12(2).*

CHAPTER XII

Stock and Bond Issues

SCOPE NOTE

This chapter includes grants of power authorizing commissions to regulate the capitalization of utilities. Provisions of general corporation law prescribing rules to be observed in stock and bond issues have been excluded. For provisions authorizing commissions to ascertain the valuation of utility property, see ch. iii, on basis of rate making. For provisions involving the purchase and sale of the stocks and bonds of utilities, see ch. xiii, on inter-corporate relations. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

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A. RIGHT TO ISSUE STOCK AND CREATE LIEN A SPECIAL PRIVILEGE.

ARIZONA, CALIFORNIA

The power of public utilities¹ to issue stocks and stock certificates and bonds, notes and other evidences of indebtedness and to create liens on their property situated
3239 within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as commission may prescribe. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(a), Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(a).*

KANSAS

The power to create liens on corporate property situated within the state of Kansas by companies transacting the business of common carriers, as defined in the laws of this state, and public utilities governed by the provisions of this act in this state is a special privilege, the right of supervision, regulation, restriction and control of which shall be
3240 vested in the state, and such power shall be exercised according to law, and the provisions of this act shall apply to all companies organized under the laws of other states of the Union and of foreign countries, as well as to domestic corporations, transacting business in this state as a common carrier or as a public utility governed by the provisions of this act. *Laws 1911, ch. 238, sec. 24a.*

WISCONSIN

The power to create liens on corporate property by public service corporations in this state is a special privilege,
3241 the right of supervision, regulation, restriction and control of which shall be vested in the state, and such power shall be exercised according to the provisions of these statutes. *Laws 1911, ch. 593, sec. 1753-2.*

B. STATE DOES NOT GUARANTEE STOCKS OR BONDS.

ARIZONA, CALIFORNIA

No provision of this act and no deed or act done or performed under or in connection therewith shall be held or construed to obligate the State of Arizona (California) to pay

¹ "Public service corporation," in Arizona.

3242 or guarantee in any manner whatsoever any stock or stock certificate or bond, note or other evidence of indebtedness authorized issued or executed under the provisions of this act. *Ariz.*—*Sess. Laws 1912, ch. 90, sec. 52(g), Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(g).*

C. AUTHORITY TO ISSUE STOCKS, BONDS AND OTHER EVIDENCES OF INDEBTEDNESS; PURPOSES; APPLICATION TO COMMISSION.

ARIZONA, CALIFORNIA

A public utility¹ may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than 12 months after the date thereof for the following purposes and no others, namely, for the acquisition of property, or for the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility¹ not secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility,¹ within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and replacements, in cases **3243** where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided, that such public utility,¹ in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. *Ariz.*—*Sess.*

¹ "Public service corporation," in Arizona.

Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(b).

GEORGIA

Each of the companies or corporations over which the authority of commission is extended by law shall be required to furnish said commission a list of any stocks and bonds, the issuance of which is contemplated and it shall be unlawful for any of said companies or corporations to issue stocks, bonds, notes, or other evidences of debt, payable more than 12 months after the date thereof, except upon the approval of said commission, and then only when necessary and for such amount as may be reasonably required for the acquisition of property, 3244 the construction and equipment of power plants, car-sheds and the completion, extension, or improvements of its facilities or properties, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations or for lawful corporate purposes falling within the spirit of this provision, the decision of the commission to be final as to the validity of the issue. Before issuing such stocks, bonds, notes, or other evidence of debt, as above mentioned, such corporations or companies shall secure an order from the commission authorizing such issue, the amount thereof, and the purpose and use for which the issue is authorized. *Code 1911, sec. 2665.*

Any commissioner or any employe of said commission who shall disclose or impart to anyone, except when legally called upon by a court of competent jurisdiction, any fact, knowledge 3245 of which was obtained in his official capacity from or through any proceeding filed with the said commission under this section, shall be guilty of a misdemeanor: Provided, that this shall not apply to such facts or information obtained through public hearings or such as are not confidential in their nature. *Same.*

KANSAS

A public utility or common carrier may issue stocks, certificates, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, for the purpose of carrying out its corporate powers, the construction, completion, extension or improvements of its facilities, or for the improvements or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for such other 3246 purposes as may be authorized by law; provided, and not otherwise, that there shall have been secured from the commission a certificate stating the amount, character, purposes and terms on

which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate, and that the statements contained in such application have been ascertained to be true. *Laws 1911, ch. 238, sec. 25.*

MARYLAND

A common carrier, railroad corporation, street railroad corporation, or other corporation subject to the provisions of this act (or a gas or electrical corporation), organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of Maryland, may issue stocks, bonds, notes or other evidence of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance, extension or improvement of its facilities (or for the construction, completion, extension or improvement of its plant or distributing system in the case of gas or electrical corporations), or for the improvement or maintenance of its service, or the discharge or lawful refunding of its obligations; provided, and not otherwise, that there shall have been secured from commission an order authorizing such issue, and the amount thereof, and stating that, in the opinion of the commission, the use of the capital to be secured by the issue of such stocks, bonds or other evidence of indebtedness is reasonably required for the said purposes of the common carrier, railroad corporation, street railroad corporation or such corporations (or for the said purposes of the corporation in the case of gas or electrical corporations). *Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34 (gas and electrical corporations), sec. 41 (telephone and telegraph companies), sec. 42 (water, heat, refrigerator and power companies).*

MASSACHUSETTS Railroad corporations and street railway companies shall issue only such amounts of stock and bonds, coupon notes and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, and gas¹ and electric light² companies, corporations established for and engaged in the business of transmitting intelligence by electricity, aqueduct and water companies, shall issue only such amount of stock

¹ No gas company, unless specially authorized, shall issue any bonds at less than the par value, nor for an amount exceeding its capital actually paid in and applied to the purposes of its incorporation. *Rev. Laws 1902, ch. 121, sec. 10.*

² No bonds shall be issued by any corporation furnishing electricity for light or power for an amount exceeding its capital then actually paid in and applied to the purposes of the corporation. *Same, sec. 12.*

and bonds, as the railroad commission in the case of railroad corporations or street railway companies, the gas and electric light commission in the case of gas or electric light companies, may from time to time vote, or the commissioner of corporations in the case of other corporations hereinbefore specified may from time to time determine, is reasonably necessary for the purpose for which such issue of stock or bonds has been authorized. *Rev. Laws 1902, ch. 109, sec. 24.*¹

The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the railroad commission, the gas and electric light commission, the commissioner of corporations, respectively, of the attorney general, of any stockholder or of any interested party, to enforce the provisions of the three preceding sections and all lawful orders and decisions, conditions or requirements of said boards or commissioner made in pursuance thereof. *Same, sec. 27.*

Any corporation which is organized under the laws of this commonwealth and is authorized to erect and maintain poles, wires or other fixtures in, over or under streets and highways for the purpose of furnishing electricity for light or power may secure the payment of bonds issued by it by a mortgage of its franchise in connection with its corporeal property, so that all persons who acquire any poles, wires or fixtures by virtue of such mortgage shall have the same rights and be subject to the same obligations relative to their erection, care and maintenance as the corporation would have had or been subject to if the mortgage had not been made. Such mortgage and all bonds shall be authorized by vote of a majority in interest of the stockholders of the corporation at a meeting called for that purpose; and the rate of interest on such bonds shall not exceed six per cent. per annum. No bonds shall be issued by any such corporation for an amount exceeding its capital then actually paid in and applied to the purposes of the corporation. *Rev. Laws 1902, ch. 121, sec. 12.*

A railroad corporation shall issue only such amounts of stock and bonds, coupon notes and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, as railroad commission may from time to time determine to be reasonably necessary for the purpose for which such issue of stock or bonds has been authorized. *Acts 1906, ch. 463, pt. ii, sec. 65.*

¹ This section is repealed so far as it applies to railroad corporations and street railway companies.

The supreme judicial court or the superior court shall have jurisdiction in equity upon the application of railroad commission, of the attorney-general, of any stockholder, or of any interested parties, to enforce the provisions of the two preceding sections¹ and all lawful orders and decisions, conditions or requirements of said board made in pursuance thereof. *Same, sec. 67.*

Upon the petition of a street railway company for authority to reduce its capital stock, presented in accordance with a vote of the stockholders at a meeting called for the purpose, the railroad commission may, after a hearing and such examination of the financial condition of the company, as it considers necessary, authorize such reduction to be made, if it appears to be consistent with the public interests and with the limitations imposed by general or special laws. A certificate of the amount of the reduction and of any terms and conditions imposed shall be forthwith filed by commission in the office of the secretary of the commonwealth. When such reduction is made, no money or other property shall be paid or transferred to the stockholders unless specially authorized by said commission, and by a vote of the directors of the company taken by yeas and nays at a meeting called for the purpose. The directors who vote therefor shall be jointly and severally liable for the debts or contracts of the company which exist at the time when the capital stock is reduced, to the extent of the money or property paid or transferred to the stockholders. *Same, pt. iii, sec. 104.*

A street railway company shall issue only such amounts of stock and bonds, coupon notes and other evidences of indebtedness payable at periods of more than 12 months after the date thereof, as the railroad commission may from time to time determine to be reasonably necessary for the purpose for which such issue of stock or bonds has been authorized. *Same, pt. iii, sec. 107.*

The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the board of railroad commission, of the attorney-general, of any stockholder or of any interested party, to enforce the provisions of the two preceding sections² and all lawful orders and decisions, conditions

¹ Section 66 provides that a railroad corporation, unless expressly authorized by its charter or by special law, shall not issue bonds, coupon notes or other evidence of indebtedness, payable at periods of more than 12 months after the date thereof, to an amount which exceeds in the whole the amount of its capital stock at the time actually paid in.

² Section 108 provides that a street railway company, unless expressly authorized by its charter or by special law, shall not issue bonds, coupon notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, to an amount which exceeds in the whole the amount of its capital stock at the time actually paid in.

or requirements of said commission made in pursuance thereof.
Same, pt. iii, sec. 109.

3286 In computing the amount of capital stock of a railroad corporation, electric railroad, street railway or elevated railway company for the purpose of determining the maximum amount of bonds, coupon notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, under the provisions of sections 48, 57, 66 of part II, or of section 108 of part 1II, of chapter 463 of the acts of 1894 and under any similar provisions of any special acts limiting the amount of such securities, which a railroad corporation, an electric railroad, a street railway or elevated railway company may issue, to the amount of its capital stock at the time actually paid in, there shall be added to the par value of the capital stock all cash premiums paid into the corporation on all shares issued by such corporation or company subsequent to July 9, 1894, under the provisions of chapter 462 of the acts of 1894 or of any similar provisions of law, and the maximum amount of such bonds, notes and other evidences of indebtedness which such corporations or company, unless expressly authorized by its charter or by special law, may issue with the approval of railroad commission, shall be limited to the aggregate amount of its issued and outstanding capital stock, determined as provided in this act, and actually paid into its treasury. *Acts 1908, ch. 620, sec. 1.*

MICHIGAN

3287 Any corporation or association, except municipal corporations, organized and existing, or which may hereafter be organized or authorized to do business under the laws of this state, or any lessee or trustee thereof, or any person or persons owning, conducting, managing, operating, or controlling any plant or equipment used wholly or in part in the business of transmitting messages by telephone or telegraph, producing or furnishing heat, light, water or mechanical power to the public, directly or indirectly, and any railroad, interurban railroad or other common carrier may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of facilities or for the improvement or maintenance of service or for the discharge or lawful refunding of obligations: Provided, that there shall have been secured from commission an order authorizing such issue and the amount thereof, and stating

that in the opinion of commission the use of the capital or property to be acquired to be secured by the issue of such stock, bonds, notes or other evidences of indebtedness, is reasonably required for the purposes of such person, corporation or association. Any such person, corporation or association desiring authority to issue stocks, bonds, notes or other evidences of indebtedness shall make written application therefor to the said commission in such form as commission may require: Provided that the provisions of this act shall apply to all stock, shares, bonds or notes issued to or taken by the incorporators or their agents, assigns or trustees of any such corporation or association in the first instance. *Pub. Acts 1911, no. 177, sec. 1.*

NEBRASKA

A common carrier or public service corporation organized, and incorporated or hereafter incorporated, under or by virtue of the laws of Nebraska, may issue stocks, bonds, notes or other evidence of indebtedness payable at period of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities, or for the improvement or main-
3250 tenance of its service or for the discharge or lawful refunding of its obligations, provided, and not otherwise, that there shall have been secured from commission an order authorizing such issue and the amount thereof and stating that in the opinion of commission the use of the capital to be secured by the issue of such stock, bonds, notes or other evidence of indebtedness is reasonably required for the said purposes of the corporation. *Acts 1909, ch. 108, sec. 1.*

NEW HAMPSHIRE

No railroad corporation or public utility shall issue any stock, bonds, notes or other evidences of indebtedness
3250 payable more than 12 months after the date thereof, without first procuring an order of commission authorizing the same. *Laws 1911, ch. 164, sec. 14(a).*

NEW JERSEY

No public utility as herein defined shall here-
after issue any stocks, stock certificates, bonds or other evidences
3250 of indebtedness payable in more than one year from the date thereof until it shall have first obtained authority from commission for such proposed issue. *Laws 1911, ch. 195, sec. 18(e).*

NEW YORK

A common carrier, railroad corporation or street railroad corporation (or a gas or electrical corporation) organized or existing, or hereafter incorporated, under or by virtue of the laws of this state, may issue stocks, bonds, notes or

other evidence of indebtedness payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities (or plant or distributing system in the case of gas or electrical corporations), or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income, or from any other moneys in the treasury of the corporation not secured by or obtained from the issue of stocks, bonds, notes or other evidence of indebtedness of such corporation within five years next prior to the filing of an application with the proper commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided, and not otherwise, that there shall have been secured from the proper commission an order authorizing such issue, and the amount thereof and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidence of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Nothing herein contained shall prohibit the commission from giving its consent to the issue of bonds, notes or other evidence of indebtedness for the reimbursement of moneys heretofore actually expended from income for any of the aforesaid purposes, except maintenance of service and replacements, prior to five years next preceding the filing of an application therefor, if in the judgment of the commission such consent should be granted; provided application for such consent shall be made prior to January 1, 1912. *Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad corporations), sec. 69 (gas and electrical corporations).*

Held, that in the case of a gas and electrical corporation the commission has no power to withhold approval of an issue of securities merely to prevent competitor from entering the field of an existing company. *People vs. Public Service Commission*, 122 N. Y. S. 641.

As the public service law leaves the management of its affairs with the corporation except in so far as clearly affected, it was held, that the commission had no right to refuse approval of an issue of securities to refund legal obligation, in the manner provided by the statute, upon the ground that the debt was greater than should have been incurred for the purpose. *People ex. rel. Delaware and Hudson Company vs. Stevens*, 197 N. Y. 1.

Under section 55 the commission is not justified in refusing to consent to the issue of securities by a railroad corporation under a plan of reorganization after foreclosure because the value of the mortgaged property and amount of new capital to be subscribed is less than the amount of securities to be issued. *People ex. rel. Third Ave. Railway vs. Public Service Commission*, 203 N. Y. 299.

The commission has no power to permit an issue of securities not permitted by the terms of the statute upon condition that outstanding stock of the utility be canceled; but can simply determine whether the proposed issue of stock is in accordance with the statute. *People ex. rel. Binghamton L., H. & P. Co. vs. Stevens*, 203 N. Y. 789.

Where railroad company sold certain rolling stock to a trust company which leased it to other roads which gave trust company certificates to be paid in instalments, but called rent, it was held, that this was "other evidences of indebtedness" within section 55 and consent of the commission should be received. *People vs. New York Central & H. R. R., 92 N. E. (N. Y.) 1096*.

A telegraph or telephone corporation may when authorized by order of commission, and not otherwise, issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than 12 months after the date thereof when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or the improvement or maintenance of its service within the state, or for the discharge or lawful refunding of its obligation, or reimbursement of moneys actually expended from the income from any source, within five years next prior to the filing of the application therefor, or for any of such purposes, provided, however, that no order shall be
3202 granted authorizing such issue for reimbursement of moneys expended from income for betterments or replacements unless the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditures were made. The commission may by order authorize the issue of bonds, notes or other evidence of indebtedness for the reimbursement of moneys heretofore actually expended from income for any of the purposes herein specified, except maintenance of service or replacements prior to five years next preceding the filing of the application therefor, provided such application be made prior to January 1, 1912. *Same*, sec. 101(1).

Subject to the limitations and requirements of this chapter and of the public service commissions law every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power from time to time to borrow such sums of money as may be necessary for completing and finishing or operating or improving its railroad, or for any other of its lawful purposes and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid, notwithstanding any limitation on such power contained in any general or special law. But no mortgage except purchase-money mortgages shall be issued by any railroad corporation under this chapter, or any other law, without the consent of the commission, and the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing, and shall be given and certified and be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, as provided in section six of the stock corporation law; or else the consent of the public service commission and the consent by their votes of stockholders owning at least two-thirds of the stock of the corporation which is represented and voted upon in person or by proxy at a meeting called for that purpose upon a notice stating the time, place and object of the meeting, served at least three weeks previously upon each stockholder personally, or mailed to him at his post office address, and also published at least once a week for three weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office, and a certificate of the vote at such meeting shall be signed and sworn to and shall be filed and recorded as provided by section six of the stock corporation law. When authorized by the stockholders' consent to any bonds made or issued under this section, the directors, under such regulations as they may adopt, may confer on the holder of any such bonds the right to convert the principal thereof, after two and not more than 12 years from the date of the bond, into stock of the corporation at a price fixed by the board of directors, which may be either par or a price not less than the market value thereof at the date of such consent to such bonds; and if the capital stock shall not be sufficient to meet the conversion when made, the board of directors shall authorize an increase of capital stock sufficient for that purpose. *Laws 1910, ch. 481, sec. 8(10).*

Subject to the approval of the public service commission of the proper district, any freight terminal corporation may issue stocks, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction completion, extension, improvement or equipment of its plant, or the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, and may mortgage its property, privileges and franchises to secure its
3284 bonds, whether convertible into stock or otherwise, and increase or decrease its capital stock; provided, and not otherwise, that as to any such issue or increase, there shall have been secured from such public service commission an order stating that, in the opinion of commission, the use of the capital to be secured by the issue of such stock, bonds, notes or other evidences of indebtedness is reasonably required for the said purposes of the corporation, specifying the amount of the issue of each such evidence of indebtedness approved and authorizing such issue.
Laws 1911, ch. 778, sec. 157(a).

OHIO

A public utility or a railroad may when authorized by order of commission and not otherwise issue stocks, bonds, notes and other evidences of indebtedness, payable at periods of more than 12 months after date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or for the improvement or maintenance of its service, or for the reorganization or readjustment of its indebtedness and capitalization, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility or railroad not secured or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of such public utility or railroad
3285 within five years next prior to the filing of an application therefor as herein provided, or for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purposes for which said expenditure was made. The commission may, by order duly made, authorize the issue of bonds, notes, or other evidence of indebtedness, for the reimbursement of money heretofore actually expended from income for any of the aforesaid

purposes, except maintenance of service and replacements prior to five years next preceding the filing of an application therefor, if such application for such consent be made prior to January 1, 1913. *Laws 1911, no. 325, sec. 56.*

TEXAS

Whenever any railroad company in this state shall hereafter desire to make, issue and sell any bonds or evidences of debt which are to become a lien on its property, it shall comply with the laws of this state regulating the same and in addition thereto shall have said bonds prepared, signed by the president of the company, and attested by the secretary, with the seal of the company attached thereto. Each bond shall be numbered, beginning with number one, or the next highest number of any preceding bond issued by it, and continue consecutively until all are numbered. The bonds shall be dated, made payable at a time not exceeding 30 years from date, and shall bear interest not exceeding six per cent. per annum. The said bonds, when thus prepared, shall be presented to the commission with a statement in writing, signed and sworn to by the president of said company, showing the amount of the stock of said company, and the amount of outstanding bonds, if any, of said company. *Sayles' Civ. Stats. 1897, art. 4584(h).*

Hereafter no bonds or other indebtedness shall be increased or issued or executed by any authority whatsoever and secured by lien or mortgage on any railroad or part of railroad, or the franchise or property appurtenant or belonging thereto, over or above the reasonable value of said railroad property; provided, that in case of emergency, on conclusive proof shown by the company to the railroad commission that public interests or the preservation of the property demanded it, the said commission may permit said bonds, together with the stock in the aggregate, to be executed to an amount not more than 50 per cent. over the value of said property. *Same, art. 4584(b).*

Any terminal railway company, in addition to the rights conferred by law upon corporations generally, shall have and exercise all rights and powers conferred upon railroad companies by chapters eight and nine of title 94 of the revised statutes of Texas relating to railroads, including the right to issue bonds in excess of its authorized capital stock; provided, that its stock and bonds shall be issued under the direction of commission in accordance with the stock and bond law regulating the issuance of stocks and bonds by railroads, and commission shall fix the values of the property, rights and franchises

of such terminal railway company and its stocks and bonds shall not exceed the amount authorized by commission and jurisdiction over the issuance of bonds herein authorized is hereby expressly vested in commission; provided, that no such terminal company shall have the right to charge any railroad company for terminal facilities a greater amount than may be from time to time designated and established by commission, which shall have authority to prescribe such rates and rules for the operation of all such terminal companies as will prevent discrimination by them against any common carrier with respect to either charges or service; provided, further, that the provisions of articles 4564, 4565 and 4566 of the revised statutes of Texas (as to rates, etc.) shall apply to any and all orders, ruling, judgments and decrees of the railroad commission, made, entered or held under the provisions of this act in regard to such terminal railway companies. *Same, sec. 53.*

VERMONT

A corporation organized under the laws of this state, subject to the provisions of this act, shall not increase its capital stock nor issue mortgages, bonds or other securities except such as are payable within one year from date of issue, without first securing the permission of the public service commission on petition and hearing for that purpose. Such corporation desiring to increase its capital stock or to issue mortgages, bonds or other securities, not payable within one year from date of issue, may petition said commission for such permission, and said commission shall thereupon appoint a time and place for hearing the petition. Said commission shall give reasonable notice in writing by mail of the time and place of hearing thereon to such petitioner, the attorney-general and the state's attorney of the county wherein such petitioner has its principal place of business in this state, and may in its discretion publish one or more times a notice of the pendency of such petition and of the time and place of hearing thereon in one or more newspapers published in the county wherein such principal office is located, and for want of such newspaper, in an adjoining county. The attorney general or state's attorney of the county shall represent the state in such hearing. *Laws 1908, no. 116, sec. 16.*

VIRGINIA

See par. 4522.

WISCONSIN

No corporation shall issue any stock or certificate of stock except in consideration of money or of labor or property estimated at its true money value, actually received

by it, equal to the par value thereof, nor any bonds or other
3370 evidences of indebtedness except for money or for labor or prop-
erty estimated at its true money value, actually received by it,
equal to 75 per cent. of the par value thereof, and all stocks
and bonds issued contrary to the provisions of law and all fic-
titious increase of the capital stock of any corporation shall be
void. *Laws 1907, ch. 576, sec. 1753.*

No public service corporation shall hereafter issue for any
purposes connected with or relating to any part of its business,
any stocks, certificates of stock, bonds, notes or other evidences
3371 of indebtedness, to an amount exceeding that which may from
time to time be reasonably necessary for the purpose for which
such issue of stock, certificates of stock, bonds, notes, or other
evidences of indebtedness may be authorized. *Laws 1911, ch.*
593, sec. 1753-4.

The term "public service corporation" when used in this act shall mean and embrace
every railroad, street railway, telegraph, telephone, express, freight line, sleeping car, light,
3372 heat, water, and power corporation, and all other corporations, excepting towns, villages,
and cities, engaged in the business of supplying the public, directly or indirectly, with light,
heat, power, or water, or in transmitting telegraph or telephone messages, or in transport-
ing passengers, freight, or express. *Laws 1911, ch. 593, sec. 1753-1.*

The term "commission" when used in this act shall mean the railroad commission
of Wisconsin; the term "capital account" when used in this act shall mean the capital
3373 account prescribed by the commission and required to be kept by every public service
corporation as provided by law. *Same.*

The term "net income or revenue" when used in this act shall mean the money
3374 available for dividends and surplus according to the accounts prescribed by the commis-
sion and required to be kept by every public service corporation. *Same.*

A public service corporation may issue stocks, certificates of
stock, bonds, notes or other evidences of indebtedness, when
necessary for organization expenses and all other expenses rea-
sonably required in connection with the financing and construc-
tion of its property, for the acquisition of property, the con-
struction, completion, extension, or improvement of its plant,
distributing system, or facilities, or for the improvement of its
service, or for the discharge or refunding of its legal obligations,
or in case of railroad corporation for any of the purposes stated
3375 in section 1826 or subsection 10 of section 1828 of the statutes,
provided, however, that no such corporation shall issue any
stocks or certificates of stock for any purpose which is not
properly chargeable to its capital account; and that if any such
corporation shall issue any bonds, notes, or other evidences of
indebtedness for any lawful purpose which is not properly
chargeable to its capital account, it shall set aside annually from
its net income or revenue,¹ if any, such a sum that when such
bonds, notes, or other evidences of indebtedness shall become
due and payable, the total amount of said sums so set aside shall
be sufficient to pay and discharge the same. *Same, sec. 1753-5.*

No public service corporation shall issue any stocks, certificates of stock, bonds, notes or other evidences of indebtedness for the purpose of paying, discharging, refunding, exchanging for, or retiring, in whole or in part, directly or indirectly, any of its bonds, notes, or other evidences of indebtedness, payable at periods of less than one year after the date thereof, which were issued for purposes not properly chargeable to its capital account. *Same, sec. 1753-6.*

No public service corporation shall issue any stock or certificate of stock except in consideration of money, or of labor or property, at its true money value, as found and determined by the commission as in this act provided, actually received by it, equal to the face value thereof, or any bonds, notes or other evidences of indebtedness except for money, or for labor or property estimated at its true money value, as found and determined by the commission as in this act provided, actually received by it equal to a sum not less than 75 per cent. of the face value thereof, provided, however, that no bonds, notes, or other evidences of indebtedness of any such corporation issued for the purpose of refunding, retiring, or discharging any of its bonds, notes, or other evidences of indebtedness, shall be issued at less than 75 per cent. of the face value thereof, plus the amount of any discount hereafter paid or incurred by such corporation upon the issuance of the bonds, notes, or other evidences of indebtedness to be refunded, retired, or discharged. *Same, sec. 1753-7.*

The amount of bonds, notes, or other evidences of indebtedness which any public service corporation may issue shall bear a reasonable proportion to the amount of stock and certificates of stock issued by such corporation, due consideration being given to the nature of the business in which the corporation is engaged, its credit and future prospects, the effect which such issue will have upon the management and efficient operation of the corporation by reason of the relative amount of financial interest which the stockholders will have in the corporation, and the circumstances surrounding the operation and business of the corporation. *Same, sec. 1753-8.*

No public service corporation shall hereafter issue any stocks, certificates of stock, bonds, notes, or any other evidence of indebtedness, except such as are issued for money only and payable one year or less from the date thereof, until it shall have first obtained authority for such issue from the commission, as herein provided. *Same, sec. 1753-9(1).*

Nothing in section 1753-9 contained, shall be construed to prohibit the commission from authorizing in such certificate the mortgage or pledge by any public service corporation of any bond, note, or other evidence of indebtedness issued by such corporation as security for or as part security for any bond, note, or other evidence of indebtedness issued by or loan made to such corporation which shall not be issued or made in violation of the provisions of this act, provided, that the terms of said loan and of such notes, bonds, or other evidences of indebtedness shall provide that none of said pledged bonds, notes, or other evidences of indebtedness shall, upon non-payment of the notes, bonds or other evidences of indebtedness which they are pledged
3280 to secure, or upon non-performance of any of the conditions thereof, be sold, or become the property of the holders of the notes, bonds, or other evidences of indebtedness so secured, either directly or through a trustee for their benefit, except at or through public sale, notice whereof shall be published once a week for not less than three successive weeks prior thereto, in at least one newspaper of general circulation printed in the English language and published in the place where such sale shall take place, and except at a sum not less than 75 per cent. of the face value thereof, plus the discount, if any, paid or incurred by the corporation upon the notes, bonds, or other evidence of indebtedness which they are pledged to secure. *Same, sec. 1753-10.*

Before the issuance of the certificate in this act provided, authorizing any public service corporation to issue bonds, notes, or other evidences of indebtedness, for purposes properly chargeable to its capital account, such corporation shall pay the commission a fee of \$1 for each \$1,000 of the face value of the bonds,
3281 notes, or other evidences of indebtedness to be issued by virtue of such authority, provided that no fee shall be required when such issue is made for the purpose of guaranteeing, taking over, refunding, discharging, or retiring any bonds, notes, or other evidences of indebtedness. Such fees when collected shall be paid into the common school fund income. *Same, sec. 1753-21.*

D. POWER OF COMMISSION TO AUTHORIZE ISSUES.

ARIZONA, CALIFORNIA

The commission may authorize issues of bonds, notes or other evidences of indebtedness, less than, equivalent to or greater than the authorized or subscribed capital stock of a public utility corporation,¹ and the provisions of section 309 and 3393 456 of the civil code of this state, in so far as they contain inhibitions against the creation by corporations of indebtedness, evidenced by bonds, notes or otherwise, in excess of their total authorized or subscribed capital stock shall have no application to public utility corporations. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(a).*

The commission may by its order grant permission for the issue of such stock or stock certificates or bonds, notes or other 3394 evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary. *Ariz.—Same; Cal.—Same, sec. 52(b).*

KANSAS

Upon full compliance by the applicant with the provisions of this section, the commission shall forthwith issue a certificate stating the amount, character, purposes and terms 3394 upon which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate, and that the statements contained in such application have been ascertained to be true. *Laws 1911, ch. 238, sec. 25.*

MASSACHUSETTS The commission (or commissioner) shall render a decision upon an application for such issue within 30 days after the final hearing thereon. Such decision shall be in writing, shall assign the reasons therefor, shall, if authorizing such issue, specify the respective amounts of stock, or bonds, or of coupon notes, or other evidences of indebtedness, as aforesaid, which are authorized to be issued for the respective purposes to which the proceeds thereof are to be applied, shall within seven days after it has been rendered, be filed in the office of said commission 3395 (or commissioner). A certificate of the decision of said commis-

¹ "Public service corporation," in Arizona.

sion shall within three days after such decision has been rendered, and before the stock or bonds or coupon notes or other evidences of indebtedness, as aforesaid, are issued, be filed in the office of the secretary of the commonwealth and duplicate thereof delivered to the corporation. *Rev. Laws 1902, ch. 109, sec. 24 (gas, electric, aqueduct, water companies and companies for transmitting intelligence by electricity). Acts 1906, ch. 463, pt. ii, sec. 65 (railroad corporations); pt. iii, sec. 107 (street railway companies).*

If, when the gas and electric light commission approve an issue of new stock or bonds by a gas or electric light company, it determines that the fair structural value of the plant of such company is less than its outstanding stock and debt, it may prescribe such conditions and requirements as it determines are best adapted to make good within a reasonable time the impairment of the capital stock; or, before allowing an increase, it may require the capital stock to be reduced by a prescribed amount not exceeding the amount of such impairment. The amount of impairment and the conditions and requirements imposed shall be stated in the annual report of the commission. *Rev. Laws 1902, ch. 109, sec. 26.*

Under sections 24 and 26 the only way in which the gas and electric light commission can require an impairment of capital to be made good out of earnings is by imposing such conditions upon any further issue of stock or bonds of the company. *Childs vs. Krey, 199 Mass. 352.*

MICHIGAN If from the application filed and such other information obtained from the investigation herein authorized, the said commission shall be satisfied that the funds derived from such issue of stocks, bonds or notes are to be applied to lawful purposes and that such issue and amount are essential to the successful carrying out of such purposes, then said commission shall grant authority to make the issue applied for. *Pub. Acts 1911, no. 177, sec. 1.*

NEW HAMPSHIRE Upon petition of directors of a railroad corporation, or public utility, the commission shall, after public notice and hearing, determine the amount of stock or bonds which, in its opinion, is reasonably requisite for the purposes for which the issue is to be made, and shall, within 30 days after final hearing upon such petition, file in the office of the secretary of state a certificate setting out the amount of the increase which it has authorized and the purposes for which the proceeds of such new stock or bonds may be used. *Laws 1911, ch. 164, sec. 14 (a).*

NEW JERSEY

It shall be the duty of the commission, after hearing, to approve of any such proposed issue maturing in more
3289 than one year from the date thereof, when satisfied that the same is to be made in accordance with law and the purpose of such issue be approved by said commission. *Laws 1911, ch. 195, sec. 18(e).*

NEW YORK

The order of the commission shall fix the amount of any such issue and the purposes to which it or its proceeds are to be applied, and recite that in the opinion of the commission the money, property or labor procured or to be procured, or paid for by such issue or its proceeds, has been or is reasonably
3290 required for the purposes specified in the order, and that such purposes are in no part reasonably chargeable to operating expenses or to income, except in the case of bonds, notes or other evidences of indebtedness as may be permitted in the order. *Laws 1910, ch. 480, sec. 101(1) (telegraph and telephone corporations).*

See also par. 3261.

OHIO

The order of the commission shall fix the amount, character and terms of any such issue and the purposes to which the issue or any proceeds thereof shall be applied, and recite that the money, property, consideration or labor pro-
3291 cured, or to be procured or paid for by such issue, has been or is reasonably required for the purposes specified in the order, and the value of any property, consideration or service, as the case may be, as found by the commission, for which, in whole or in part, such issue is proposed to be made. *Laws 1911, no. 325, sec. 58.*

It shall be the duty of the commission to authorize on the best terms obtainable such issues of stocks, bonds and other
3292 evidences of indebtedness as shall be necessary to enable any public utility to comply with the provisions of any contract heretofore made between such public utility and any municipality. *Same, sec. 56.*

TEXAS

If said bonds are such as are permitted under this law, and commission shall be so satisfied, it shall approve said bonds and shall issue to the secretary of state a direction to register said bonds, specifying the numbers, dates and amounts
3293 thereof, and said commission shall keep in its office a correct record of the bonds so approved by it, giving the name of the company, the numbers, dates of execution and maturity of the

bonds the amount and rate of interest of each and the date of approval. *Sayles' Civ. Stats. 1897, art. 4584(h).*

VERMONT

If the commission, after due hearing, is satisfied that such corporation ought to be permitted to increase its capital stock, or to issue such mortgages, bonds or other securities, and that the same is required for the proper development
3294 of the business of such corporation, and that the same will be promotive of the general good of the public, said commission shall then issue to said corporation a certificate under its seal, stating the amount of increase, manner, terms and conditions under which the same may be issued. *Laws 1908, no. 116, sec. 16.*

See also pars. 349, 351.

WISCONSIN

The commission shall find and determine the amount of such stock, certificates of stock, bonds, notes or other
3295 evidences of indebtedness (issues for money only) reasonably necessary for the purposes for which the same are to be issued. *Laws 1911, ch. 593, sec. 1753-9(2).*

If the commission shall determine that such proposed issue (for money only) complies with the provisions of this act such authority shall thereupon be granted, and it shall issue to the corporation a certificate of authority, stating: (a) the amount of
3296 such stocks, certificate of stock, bonds, notes, or other evidences of indebtedness reasonably necessary for the purposes for which they are to be issued, and the character of the same; (b) the purposes for which they are to be issued; and (c) the terms upon which they are to be issued. *Same, sec. 1753-9(3).*

If the commission shall determine that the proposed issue (for other than money) complies with the provisions of this act, such authority shall thereupon be granted and it shall issue to the corporation a certificate of authority stating: (a) the amount of such stocks, certificates of stock, bonds, notes, or other evidences of indebtedness reasonably necessary for the purposes for which
3297 they are to be issued, and the character of the same; (b) the purposes for which they are to be issued; (c) the terms upon which they are to be issued, and (d) the true value of the property, services, or other consideration than money (which shall be described in detail) as found and determined by the commission, for which, in whole or in part, such issue is to be made. *Same, sec. 1753-9(6).*

E. CHARACTER OF INVESTIGATION BY COMMISSION.

ARIZONA, CALIFORNIA, GEORGIA, MARYLAND

To enable it to determine whether it will issue such order, the commission shall hold a hearing and may make such additional inquiry or investigation and examine such witnesses, books, documents, papers and contracts and require the filing of such data as it may deem of assistance.¹ *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(b); Ga.—Code 1911, as amended, sec. 2665; Md.—Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34 (gas and electrical corporations), sec. 41 (telephone and telegraph corporations), sec. 42 (water, heat, refrigerator and power companies).*

KANSAS

See par. 3305.

MICHIGAN

After receiving such application, said commission may, for the purpose of enabling it to determine whether it should grant such authority, make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. If the applicant shall fail, neglect, or refuse to furnish any or all of the information required by said commission, or if the said commission shall so direct, an appraisal of the property of said applicant, shall be made by a disinterested person or persons to be appointed by said commission and whose compensation shall be fixed by said commission, the entire expense of making such appraisal to be borne by said applicant. After said appraisal is made and filed with said commission and before any action is taken by said commission upon said application, the expenses of said appraisal as determined by said commission shall be paid by said applicant to said commission, which shall deposit the same in the treasury of the state to be credited to the general fund, taking the receipt of the treasurer therefor and filing the same in its office with said application. If the applicant shall refuse or neglect to pay the expense of said appraisal, the commission shall dismiss such application and said commission may bring an action against said applicant in any court of competent jurisdiction in this state for

¹ Georgia—"deem advisable"; Maryland—"deem of importance in enabling it to reach a determination"; Ohio—"deem proper."

the recovery of the expense of said appraisal. The expense of said appraisal shall be paid by the state treasurer upon the warrant of the auditor general to the persons certified by the commission to be entitled thereto. *Pub. Acts 1911, no. 177, sec. 1.*

NEBRASKA, NEW YORK, OHIO

Identical with par. 3298. *Neb.—Acts 1909, ch. 108, sec. 1; N. Y.—Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad corporations), sec. 69 (gas and electrical corporations), sec. 101(1) (telephone and telegraph corporations); Ohio—Laws 1911, no. 325, sec. 58.*

VERMONT

See par. 3269.

WISCONSIN

For the purpose of enabling it to determine whether the proposed issue (for other than money) complies with the provisions of this act, the commission shall determine the true valuation in detail of the property, services or other consideration, other than money, for which it is proposed to issue, in whole or in part, such stocks, certificates of stock, bonds, notes or other evidences of indebtedness, and shall make such inquiry or investigation, hold such hearings and examine such witnesses books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. *Laws 1911, ch. 593, sec. 1753-9(5).*

For the purpose of enabling it to determine whether the proposed issue (for money only) complies with the provisions of this act, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. It may also make a valuation of all the property of the corporation if it deems it pertinent to the inquiry or investigation. *Same, sec. 1753-9(2).*

Any such public service corporation, if dissatisfied with any valuation made by the commission, or any order or certificate made or issued by it, may commence an action in the circuit court of Dane county against the commission, as defendant, to vacate and set aside such valuation, order, or certificate on the ground that the same is unreasonable or unlawful, in which action the complaint shall be served with the summons. Sections 1797-16 and 1797-17 of the statutes shall apply to all the rights of the parties to the proceeding in such action. *Same, sec. 1753-16.*

F. PROCEEDINGS FOR OBTAINING CERTIFICATE AND CONDITIONS OF ITS ISSUE.

1. *Issues for Money Only.*

KANSAS

The proceedings for obtaining such certificate from commission and the conditions of its being issued by commission shall be as follows: In case the stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued for money only, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer of the company having knowledge
3304 of the facts, showing (1) the amount and character of the proposed stocks, certificates, bonds, notes or other evidences of indebtedness; (2) the general purposes for which they are to be issued; (3) the terms on which they are to be issued; (4) the total assets and liabilities of the public utility or common carrier; and (5) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor. *Laws 1911, ch. 238, sec. 25.*

The commission may also require the public utility or common carrier to furnish such further statements of facts as may be
3305 reasonable and pertinent to the inquiry, and shall have full power to ascertain the truth of all statements made by such common carrier or public utility. *Same.*

OHIO

The proceedings for obtaining the consent and authority of the commission for such issue as provided in the next preceding section of this act, shall be as follows in case the stocks, bonds, notes, or other evidence of indebtedness are to be issued for money only: The public utility or railroad shall file with the commission a statement, signed and verified by the
3306 president and secretary thereof setting forth (1) the amount and character of the stocks, bonds or other evidence of indebtedness; (2) the purposes for which they are to be issued; (3) the terms upon which they are to be issued; (4) the total assets and liabilities of the public utility or railroad in such detail as the commission may require; (5) if the issue is desired for the purpose of the reimbursement of money expended from income, as herein provided, the amount expended, when and for what purposes

expended; (6) such other facts and information pertinent to the inquiry as the commission may require. *Laws 1911, no. 325, sec. 57.*

WISCONSIN

The proceedings for obtaining a certificate of such authority from the commission and the conditions of its being granted by the commission shall be as follows: In case the stocks, certificates of stock, bonds, notes or other evidences of indebtedness are payable at periods of more than one year after the date thereof, and are to be issued for money only, the corporation shall file with the commission a statement, signed and
3307 verified by its president and secretary, setting forth (1) the amount and character of the proposed stocks, certificates of stock, bonds, notes, or other evidences of indebtedness; (2) the purposes for which they are to be issued; (3) the terms on which they are to be issued, and (4) the total assets and liabilities, and the previous financial operations and business of the corporation, in such detail as the commission may require. *Laws 1911, ch. 593, sec. 1753-9(1).*

The signers of the articles of association of a public service
3308 corporation hereafter organized may sign and verify such statement in the first instance. *Same, sec. 1753-9(2).*

2. Issues for Other Than Money.

KANSAS

In case the stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued partly or wholly for property or services or other consideration than money, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer having knowledge of the facts, showing: (1) the amount and character of the stocks, certificates, bonds, notes or other evidences of indebtedness proposed to be issued; (2) the general purposes for which they are to be issued; (3) a general description and an estimated value of the property or services for
3309 which they are to be issued; (4) the terms on which they are to be issued or exchanged; (5) the amount of money, if any, to be received for the same in addition to such property, services or other consideration; (6) the total assets and liabilities of the public utility or common carrier; and (7) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor. *Laws 1911, ch. 238, sec. 25.*

The commission may also require the public utility or common carrier to furnish such further statements of facts as may be reasonable and pertinent to the inquiry, and shall have full power to ascertain the truth of all statements made by such common carrier or public utility. *Same.*

OHIO

If the stocks, bonds, notes or other evidence of indebtedness are to be issued, partly or wholly for property or services or other consideration than money the public utility or railroad shall file with the commission a statement, signed and verified by its president and secretary, setting forth: (1) the amount and character of the stocks, bonds or other evidence of indebtedness proposed to be issued; (2) the purposes for which they are to be issued; (3) the description and estimated value of the property or services for which they are to be issued; (4) the terms on which they are to be issued or exchanged; (5) the amount of money, if any, to be received from the same in addition to the property, service or other consideration; (6) the total assets and liabilities of the public utility or railroad in such detail as the commission may require, and (7) such other facts and information pertinent to the inquiry as commission may require. *Laws 1911, no. 325, sec. 57.*

WISCONSIN

In case the stocks, certificates of stock, bonds, notes, or other evidences of indebtedness, payable in more than one year after the date thereof, or payable in less than one year from the date thereof when issued for purposes properly chargeable to its capital account, are to be issued, partly or wholly, for property or services or other consideration than money, the corporation shall file with the commission a statement, signed and verified by its president and secretary, setting forth: (1) the amount and character of the stocks, certificates of stock, bonds, notes, or other evidences of indebtedness proposed to be issued; (2) the purposes for which they are to be issued; (3) the description in detail and estimated value of the property or services for which they are to be issued; (4) the terms on which they are to be issued or exchanged; (5) the amount of money, if any, to be received for the same, in addition to such property, services, or other consideration, and (6) the total assets and liabilities, and the previous financial operations and business of the corporation, in such detail as the commission may require. *Laws 1911, ch. 593, sec. 1753-9(4).*

The signers of the articles of association of a public service

3313 corporation hereafter organized may sign and verify such statement in the first instance. *Same, sec. 1753-9(5).*

G. LIMITATIONS ON APPLICATION OF ACTS.

KANSAS This provision shall not apply to any lawful issue of stock, the lawful execution and delivery of any mortgage, 3314 or to the lawful issue of any bonds thereunder which shall have been duly approved by the commission prior to the taking effect of this act. *Laws 1911, ch. 238, sec. 25.*

MARYLAND Substantially identical with par. 3314. *Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad 3315 corporations), sec. 41 (telephone and telegraph companies), sec. 42 (water, heat, refrigerator and power companies).*

MASSACHUSETTS The provisions of this section shall not require the approval of the railroad commission to the issue of capital stock or bonds or of coupon notes, or other evidences of indebtedness, as aforesaid, authorized by law of this commonwealth, the proceeds of which are to be expended in another state or country, or which are to pay for borrowed money expended in another state or country. *Acts 1906, ch. 463, pt. ii, sec. 65 (railroad companies).*

NEW HAMPSHIRE No public utility or railroad corporation not owning, operating or maintaining a railroad within this state, subject to the provisions of this act, shall be required to apply to the commission for authority to issue stocks, bonds, notes or other 3317 evidence of indebtedness, except for the acquisition of property. the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within this state, or the discharge or refunding of its obligations or reimbursement of moneys actually expended for such purposes. *Laws 1911, ch. 164, sec. 14(a).*

NEW YORK This provision shall not apply to any lawful issue of stock, to the lawful execution and delivery of any mortgage, or to the lawful issue of any bonds thereunder, which shall 3318 have been duly approved by the board of railroad commissioners before July 1, 1907. *Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad companies).*

No telegraph corporation or telephone corporation shall be required to apply to the commission for authority to issue stocks, bonds, notes or other evidence of indebtedness, except for the
3319 acquisition of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within the state, or the discharge or refunding of obligations or reimbursement of moneys actually expended for such purposes. *Same, sec. 101(1).*

OHIO No interstate railroad or public utility shall be required to apply to the commission for authority to issue stock, bonds, notes or other evidence of indebtedness for the acquisition
3320 of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service outside the state, or for the discharge or refunding of obligations issued or incurred for such purposes, or for the reimbursement of moneys actually expended for such purposes outside the state. *Laws 1911, no. 325, sec. 58.*

TEXAS This provision shall not apply to receivers' certificates where the amount does not exceed \$100,000. *Sayles' Civ. Stats. 1897, art. 4584(h).*

VERMONT Nothing contained in this act shall apply to a
3322 mortgage heretofore executed and recorded, nor to bonds there- by secured. *Laws 1908, no. 116, sec. 16.*

WISCONSIN The provisions of this act shall not apply to
3323 any stock, bonds or other evidence of indebtedness heretofore authorized by the commission. *Laws 1911, ch. 593, sec. 1753-22.*

H. UTILITIES AUTHORIZED TO ISSUE NOTES FOR LIMITED PERIODS WITHOUT CERTIFICATE.

ARIZONA, CALIFORNIA

A public utility¹ may issue notes for proper purposes and not in violation of any provisions of this act or any other act, payable at periods of not more than 12 months after the date of issuance of same, without the consent of the commis-
3324 sion, but no such notes shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any

¹"Public service corporation," in Arizona.

term or character, or any other evidence of indebtedness, without the consent of the commission. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(a).*

GEORGIA

Such corporations or companies may issue notes or other evidences of indebtedness for proper corporate purposes and not in violation of any law, payable at periods of not more than 12 months from date, without such consent, but no
3325 such notes or other evidences of indebtedness shall, in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds, or by any evidence of indebtedness running for more than 12 months, without the consent of the commission. *Code 1911, sec. 2665.*

KANSAS

Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year,
3326 which shall be issued by such public utility or common carrier contrary to the provisions of this act shall be void. *Laws 1911, ch. 238, sec. 25.*

MARYLAND

Identical with par. 3325 in authorizing issue of notes only for periods not exceeding 12 months. *Laws 1910, 3327 ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34 (gas and electrical corporations), sec. 41 (telephone and telegraph corporations), sec. 42 (water, heat, refrigerator and power corporations).*

MICHIGAN

Any such person, corporation or association may issue notes for lawful purposes, payable at periods of not more than 24 months, without authority from said commission;
3328 but no such notes shall, in whole or in part, directly or indirectly, be refunded by any issue of stock or bonds, or by any evidence of indebtedness running for more than 12 months, without the consent of said commission. *Pub. Acts 1911, no. 177, sec. 1.*

NEBRASKA, NEW YORK, OHIO

Substantially identical with par. 3325 in authorizing issue of notes only. *Neb.—Acts 1909, ch. 108, sec. 1; 3329 N. Y.—Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad corporations), sec. 69 (gas and electrical corporations), sec. 101(1) (telegraph and telephone corporations); Ohio—Laws 1911, no. 325, sec. 58.*

WISCONSIN

Except as otherwise provided herein, the provisions of this act shall apply to the issue by public service cor-

3330 porations of stocks, certificates of stock, bonds, notes or other evidences of indebtedness, payable at periods of more than one year after the date thereof. *Laws 1911, ch. 593, sec. 1753-3.*

I. ISSUE OF STOCKS OR BONDS FOR FRANCHISES OR PROPERTY OF OTHER PUBLIC UTILITIES.

NEW HAMPSHIRE The commission may authorize a public utility to issue its stocks or bonds in payment for property or
3331 stocks, bonds or other securities of like corporations which it may lawfully acquire, upon such terms as the commission may approve, having due regard to the public good. *Laws 1911, ch. 164, sec. 14(e).*

J. CAPITALIZATION OF REORGANIZED UTILITIES.

NEW YORK Reorganizations of railroad corporations, street railroad corporations, common carriers, gas corporations, electrical corporations, and telegraph and telephone corporations pursuant to sections nine and ten of the stock corporation law
3332 and such other laws as may be enacted from time to time shall be subject to the supervision and control of the proper commission and no such reorganization shall be had without the authorization of such commission. *Laws 1910, ch. 480. secs. 55a(1), 69a(1), 101a(1).*

Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission which, in making its determination, shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition,
3333 earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash, provided, however, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission. *Same, secs. 55a(2), 69a(2), 101a(2).*

OHIO

Where a public utility or railroad is, at the time this act takes effect, in the possession of one or more receivers or its property is under foreclosure, and a reorganization thereof is pending, any new company or companies that may hereafter be organized to acquire such property or any part thereof shall be exempt from all the provisions of this act with respect to the issue of bonds, stocks and evidences of debt, provided that the total debts, obligations and securities of such new
2334 or reorganized company or companies exclusive of bonds, obligations, stocks and other securities that may be issued or authorized for additional capital shall not exceed the debts, obligations, stocks and other securities of the existing company or companies, and provided, further, that from and after its organization and the issue of such bonds, obligations, stocks and other securities are hereby permitted, all the provisions of this act shall apply to such new or reorganized company or companies. *Laws 1911, no. 325, sec. 59.*

WISCONSIN

Any person or association of persons, which shall have, or may hereafter become the owner or assignee of the rights, powers, privileges, and franchise of any public service corporation, created or organized by or under any law of this state, by purchase under a mortgage sale, sale in bankrupt proceedings, or sale under any judgment, order, decree, or proceedings of any court in this state, including the courts of the United States sitting herein, must, within 60 days after such purchase or assignment, organize anew by filing articles of organization as provided by law respecting corporations for
2335 similar purposes, and thereupon shall have the rights, privileges and franchises which such corporation had, or was entitled to have, at the time of such purchase and sale, and such as are provided by those statutes applicable thereto. The new organization may issue stock, certificates of stock and bonds for the property of the former corporation thus acquired, in an amount not to exceed the true value of such property, as found and determined by the commission, and stated in the certificate of authority issued to such corporation, in accordance with the provisions of subsections 5 and 6 of section 1753-9 of the statutes. *Laws 1911, ch. 593, sec. 1753-11(1).*

K. UNAUTHORIZED ISSUES VOID.

ARIZONA, CALIFORNIA

All stock and every stock certificate, and every bond, note or other evidence of indebtedness of a public utility,¹ issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility,¹ issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock or stock certificate, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(d); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(d).*

3336 All stocks and stock certificates, and bonds, notes and other evidences of indebtedness issued by any public utility¹ after this act takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had
3337 previous to the taking effect of this act shall be void, unless an order of the commission authorizing the issue of such stocks or stock certificates, or bonds, notes or other evidence of indebtedness shall have been obtained from the commission prior to such issue. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. *Ariz.—Same, sec. 52(h); Cal.—Same, sec. 52(h).*

KANSAS

Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness, not payable within one year,
3338 which shall be issued by such public utility or common carrier contrary to the provisions of this act, shall be void. *Laws 1911, ch. 238, sec. 25.*

OHIO

All stocks, bonds, notes or other evidence of
3339 indebtedness issued by any public utility or railroad without the

¹"Public service corporation," in Arizona.

consent or permission of the commission, as herein provided, shall be void and of no effect. *Laws 1911, no. 325, sec. 58.*

TEXAS

Every certificate of stock in any railroad company and every bond and other evidence of debt operating as a
3340 lien upon the property of such railroad company, which shall be made, issued or sold without a compliance with this chapter, shall be void. *Sayles' Civ. Stats. 1897, art. 4584(k).*

WISCONSIN

All stocks, certificates of stock, bonds, notes
3341 and other evidences of indebtedness of any public service corporation, issued contrary to the provisions of this act, shall be void. *Laws 1911, ch. 593, sec. 1753-7.*

All stocks, certificates of stock, bonds, notes, or other evidences of indebtedness issued or delivered by any public service corporation, after this act takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of
3341 the stockholders or directors filed, taken or had previous to the taking effect of this act, shall be void unless the certificate provided for by this act shall have been obtained from the commission prior to such issue or delivery. The burden of proof shall be upon any party claiming any exemption under this act. *Same, sec. 1753-19.*

L. APPLICATION OF PROCEEDS OF ISSUES.

ARIZONA, CALIFORNIA

No public utility¹ shall, without the consent of the commission apply the issue of any stock or stock certificate or bond, note or other evidence of indebtedness, or any part thereof, or any proceeds thereof to any purpose not specified in
3343 the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on terms less favorable than those specified in such order, or a modification thereof. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(a).*

KANSAS

No corporation engaged in the business of a
3344 common carrier shall apply the proceeds of any such stocks, certificates of stock, bonds or other evidences of indebtedness to any other purpose or issue the same on any less favorable terms

¹ "Public service corporation," in Arizona.

than that specified in the certificate issued by the commission, unless by permission of commission. *Gen. Stats. 1909, sec. 7067.*

MASSACHUSETTS A company which is within the provisions of this section shall not apply the proceeds of such stock or bonds or coupon notes or other evidences of indebtedness as aforesaid, to
3345 any purpose not specified in such certificate. *Rev. Laws 1902, ch. 109, sec. 24 (gas, electric light, aqueduct and water companies and corporations for transmitting intelligence by electricity). Acts 1906, ch. 463, pt. ii, sec. 65 (railroad corporation), sec. 107 (street railway company).*

NEW HAMPSHIRE No railroad corporation or public utility shall
3345 apply the proceeds of any stock, bonds or notes to any other purpose than those specified in the order of the commission authorizing the issue of the same. *Laws 1911, ch. 164, sec. 14(a).*

NEW YORK, OHIO Such corporation shall not, without the consent of the commission, apply said issue or any proceeds thereof, to any purpose not specified in such order. *N. Y.—Laws 1910, 3347 ch. 480, sec. 55 (common carrier, railroad and street railroad corporations), sec. 69 (gas, and electrical corporations), sec. 101(1) (telegraph and telephone corporations); Ohio—Laws 1911, no. 325, sec. 58.*

WISCONSIN Such corporation shall not apply the proceeds of such stock, bonds, notes or other evidences of indebtedness as aforesaid (issued for money only) to any purposes not specified in
3345 such certificate, nor issue such stock, bonds, notes or other evidences of indebtedness on any terms not specified in such certificate. *Laws 1911, ch. 593, sec. 1753-9(3).*

Such corporation shall not apply the proceeds of the sale of such stock, bonds, notes, or other evidences of indebtedness as aforesaid to any purpose not specified in such certificate, nor issue such stock, bonds, notes, or other evidences of indebtedness on any terms not specified in such certificate, and no property, serv-
3345 ices, or other consideration than money shall be taken in payment to the corporation for such stock, certificates of stock, bonds, notes or other evidences of indebtedness, except at the true value of such property, services, or other consideration than money, as found and determined by the commission and stated in said certificate. *Same, sec. 1753-9(7).*

M. DUTY OF UTILITIES TO ACCOUNT TO COMMISSION FOR DISPOSITION OF PROCEEDS.

ARIZONA, CALIFORNIA

The commission shall have the power to require public utilities¹ to account for the disposition of the proceeds of all sales of stocks and stock certificates, and bonds, notes
3350 and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(c); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(c).*

NEW HAMPSHIRE Every railroad corporation and public utility issuing stocks, bonds or other evidence of indebtedness subject to
3351 the provisions of this section, shall file with the commission an account showing in such detail as the commission shall require the disposition of the proceeds of such issue. *Laws 1911, ch. 164, sec. 14(a).*

WISCONSIN The commission shall have the power to require public service corporations to account for the disposition of the proceeds of all sales of stocks, certificates of stock, bonds,
3352 notes, and other evidences of indebtedness, issued pursuant to this act, in such form and detail as it may deem advisable, and to do and perform any and all acts necessary to carry out the provisions of this act. *Laws 1911, ch. 593, sec. 1753-13.*

N. CERTIFICATE OF AUTHORIZATION REQUIRED TO BE RECORDED.

KANSAS No common carrier or public utility shall issue any stock, certificates, bonds, notes or other evidences of indebtedness for money, property or services, either directly or
3353 indirectly, nor shall it receive any money, property or services in payment of the same, either directly or indirectly, until there shall have been recorded upon the books of such corporation the certificate of the commission herein provided for. *Laws 1911, ch. 238, sec. 34.*

¹ "Public service corporation," in Arizona.

WISCONSIN

No public service corporation shall issue any stocks, certificates of stock, bonds, notes or other evidences of
3354 indebtedness for money, property or services, either directly or indirectly, until there shall have been recorded upon the books of such corporation the certificate of commission herein provided for. *Laws 1911, ch. 593, sec. 1753-12.*

O. CONTRACT FOR CONSOLIDATION OR LEASE SHALL NOT BE CAPITALIZED.

ARIZONA, CALIFORNIA, MARYLAND, NEBRASKA

No contract for consolidation or lease shall be capitalized, nor shall any public utility¹ hereafter issue any bonds, notes or other evidences of indebtedness against or as a
3355 lien upon any contract for consolidation or merger. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911 1st. ex. sess., ch. 14, sec. 52(a); Md.—Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34. (gas and electrical corporations); Neb.—Acts 1909, ch. 108, sec. 1.*

NEW JERSEY

No public utility shall capitalize any contract for consolidation, merger or lease; issue any bonds or other evidence of indebtedness against or as a lien upon any contract for consolidation, merger or lease; provided, however, that the provisions of this section shall not prevent the issuance of stock,
3356 bonds or other evidence of indebtedness subject to the approval of commission by any lawfully merged or consolidated public utilities not in contravention of the provisions of this section. *Laws 1911, ch. 195, sec. 18(f).*

NEW YORK, OHIO Identical with par. 3355. *N. Y.—Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad corporations), sec. 69 (gas and electrical corporations), sec. 101 (telegraph and telephone corporations); Ohio—Laws 1911, no. 325, sec. 62.*

P. FRANCHISES NOT TO BE CAPITALIZED.

ARIZONA, CALIFORNIA

The commission shall have no power to authorize the capitalization of the right to be a corporation, or to
"Public service corporation," in Arizona; "corporation," in Maryland and Nebraska.

authorize the capitalization of any franchise or permit whatsoever, or the right to own, operate or enjoy any such franchise or
3355 permit in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as a consideration for the grant of such franchise, permit or right. *Ariz.—Sess. Laws, 1912, ch. 90, sec. 52(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 52(a).*

MARYLAND, NEBRASKA

The commission shall have no power to authorize the capitalization of any franchise to be a corporation, or to authorize the capitalization of any franchise or right to own, operate or enjoy any franchise whatsoever in excess of the
3359 amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as a consideration for the grant of such franchise or right. *Md.—Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34 (gas and electrical corporations), sec. 41 (telephone and telegraph companies), sec. 42 (water, heat, refrigerator and power companies); Neb.—Acts 1909, ch. 108, sec. 1.*

NEW JERSEY No public utility shall capitalize any franchise to be a corporation; capitalize any franchise in excess of the
3360 amount (exclusive of any tax or annual charge) actually paid to the state or any political subdivision thereof as a consideration of such franchise. *Laws 1911, ch. 195, sec. 18(f).*

NEW YORK Identical with par. 3359. *Laws 1910, ch. 480, sec. 55 (common carrier, railroad and street railroad corporations),*
3361 *sec. 69 (gas and electrical corporations), sec. 101 (telegraph and telephone corporations).*

OHIO The commission shall not have power to authorize the capitalization of any franchise or right to own, operate or enjoy any franchise whatsoever in excess of the
3362 amount (exclusive of any tax or annual charge) actually paid to any political subdivision of the state or county as the consideration for the grant of such franchise or right. *Laws 1911, no. 325, sec. 62.*

WISCONSIN In determining the value of the property of a public service corporation or any person furnishing service to the public for the purposes of this act, no franchise to be a corporation
3363 and no franchise or privilege granted to such corporation by the state or a municipality shall be appraised, fixed or con-

sidered at any greater sum or value than the sum paid therefor into the public treasury of the state or the municipality granting the same. *Laws 1911, ch. 593, sec. 1753-15.*

Q. CAPITAL OF CONSOLIDATED CORPORATION.

MARYLAND The capital stock of corporations formed by the merger or consolidation of two or more other corporations shall not exceed the sum of the capital stock of the corporations
2364 so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash. *Laws 1910, ch. 180, sec. 27 (common carrier, railroad and street railroad corporations), sec. 34 (gas and electrical corporations).*

MASSACHUSETTS When a gas company incorporated under the laws of Massachusetts consolidates with any other gas company or companies, or an electric light company incorporated under the laws of Massachusetts consolidates with any other such
2365 electric light company or companies, or any such gas company or companies consolidates with any such electric light company or companies, the aggregate amount of the capital stock and the aggregate amount of the debt of the consolidated companies shall not by reason of such consolidation be increased. *Acts 1906, ch. 382, sec. 1.*

NEBRASKA, NEW YORK

Identical with par. 3364. *Neb.—Acts 1909, ch. 108, sec. 1; N. Y.—Laws 1910, ch. 480, sec. 55 (common car-
2366 rier, railroad and street railroad corporations), sec. 69 (gas and electrical corporations), sec. 101 (telegraph and telephone corporations).*

OHIO The aggregate amount of the debt of consolidated companies by reason of such consolidation shall not be increased, nor shall the capital stock of a corporation formed by
2367 the merger or consolidation of two or more corporations exceed the sum of the capital stock of the corporation or corporations so consolidated or merged at the par value thereof, and such sum or any additional sum actually paid in cash. *Laws 1911, no. 325, sec. 62.*

R. MANNER IN WHICH RAILROADS AND STREET RAILWAYS MAY INCREASE CAPITAL ISSUES FOR SPECIAL PURPOSES DESIGNATED.

MAINE

Any railroad desiring to change the gauge of its road shall by vote increase its capital stock to the amount required by section 1 of this chapter if the existing capital be not equal to such amount, and shall present to commission a written application subscribed and sworn to by a majority of its directors, setting forth the desire of the petitioners, and that the increased amount of capital stock has been in good faith subscribed by responsible persons, and that five per cent. thereof has been paid, in cash, to the treasurer of such corporation. If such application be approved by commission such corporation shall make and file a new location as provided by section 8 of this chapter. *Rev. Stats. 1903, ch. 51, sec. 9.*

A railroad corporation for the purpose of building a branch railroad track which it is or may be authorized to build, or of building a branch or extension which it is or may be authorized to build, or of aiding in the construction of another railroad pursuant to law, or of building stations, or of abolishing grade crossings, or of making permanent improvements, or of paying its floating debt, or of paying its funded debt, or for payment of money borrowed for any lawful purpose, or for the purchase of shares of the capital stock of any railroad corporation whose railroad is leased to or operated by it, or for the purchase of shares of the capital stock of any railroad corporation of which capital stock it owns a majority, or for improving the alignment of its road, or for acquiring land for and laying new tracks, or for other necessary and lawful purposes not named in section five, from time to time, with the approval of commission, as hereinafter provided, may increase its capital stock beyond the amount fixed by law by issuing common or preferred stock, provided such increase shall first be authorized by vote of a majority of stock, present or represented, at a legal meeting of the corporation duly called for that purpose. If preferred stock be issued the character of such stock, including its voting power, if any, and the rate of interest it shall bear and whether it shall be cumulative or non-cumulative, shall be fixed by vote of the

majority of stock present or represented at such legal meeting.
Same, sec. 19.

• Upon petition of the directors of a railroad corporation to commission, the amount of such increase, after such notice by publication as commission shall order, and after hearing, shall be determined by commission who shall within 30 days after final hearing of said petition file in the office of the secretary of
2370 state a certificate showing the amount of increase authorized and the purposes for which the proceeds of said new stock may be used; and the company shall not apply such increase or the proceeds thereof to any purpose not specified in said certificate, and may be enjoined from so doing by any justice of the supreme judicial court upon application of commission or of any interested party. *Same, sec. 20.*

NEW HAMPSHIRE A railroad corporation for the purpose of building a branch or extension of its railroad, or of aiding in the construction of another railroad, or of taking stock in an elevator corporation and erecting and operating elevators upon its own road and upon those leased to or operated by it, or of building depots or of abolishing grade crossings or of building or purchasing power houses, shops or other structures and machinery or equipment for the same, or of making permanent improvements or additions to its plant, rolling stock or appliances, or of purchasing the shares of the capital stock of any railroad corporation whose railroad property is leased to or to be operated by
2371 it, or of any other railroad corporation a majority of the capital stock of which is owned by the purchasing road, or of paying or refunding its funded debt, or of paying floating indebtedness or money borrowed, where such debt or indebtedness was created or the money used for any of the purposes hereinbefore enumerated, may from time to time, with the authority of the commission as herein provided, increase its capital stock or bonds beyond the amounts fixed and limited by its articles of association or its charter, or by any act of the general court, provided that such increase shall first be authorized by the vote of a majority of the stockholders present at any meeting of the corporation duly called for that purpose. *Laws 1911, ch. 164, sec. 14(b).*

NEW YORK Subject to the limitations and requirements of this chapter and of the public service commissions law every railroad corporation, in addition to the powers given by the

general and stock corporation laws, shall have power from time to time to borrow such sums of money as may be necessary for completing and finishing or operating or improving its railroad, or for any other of its lawful purposes and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid, notwithstanding any limitation on such power contained in any general or special law. But no mortgage, except purchase-money mortgages, shall be issued by any railroad corporation under this chapter or any other law without the consent of the public service commission, and the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing, and shall be given and certified and be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, as provided in section six of the stock corporation law; or else the consent of the public service commission and the consent by their votes of stockholders owning at least

3372 two-thirds of the stock of the corporation which is represented and voted upon in person or by proxy at a meeting called for that purpose upon a notice stating the time, place and object of the meeting, served at least three weeks previously upon each stockholder personally, or mailed to him at his post office address, and also published at least once a week for three weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office, and a certificate of the vote at such meeting shall be signed and sworn to and shall be filed and recorded as provided by section six of the stock corporation law. When authorized by the stockholders' consent to any bonds made or issued under this section, the directors, under such regulations as they may adopt, may confer on the holder of any such bonds the right to convert the principal thereof, after two and not more than twelve years from the date of the bond, into stock of the corporation at a price fixed by the board of directors, which may be either par or a price not less than the market value thereof at the date of such consent to such bonds; and if the capital stock shall not be sufficient to meet the conversion when made, the board of directors shall authorize an increase of capital stock sufficient for that purpose. *Laws 1910, ch. 481, sec. 8(10).*

Any railroad company incorporated under chapter 140, of the laws of 1850 entitled "An act to authorize the formation of railroad corporations and to regulate the same," and acts

amendatory thereof and supplementary thereto, may change the gauge of its road on consent of the public service commission and approval of the stockholders of said railroad company owning three-fourths in amount of the capital stock, said approval of said stockholders to be made at a special meeting of the stock-
3373 holders of said company called for that purpose; and upon like consent of said commission, and upon like approval of the stockholders of said railroad company owning three-fourths in amount of the said capital stock of said company, the floating and bonded indebtedness of said railroad company may be increased to an amount necessary to make such change of gauge and to provide for the operating expenses of said railroad, notwithstanding restrictions or limitations contained in the original certificate of incorporation of said railroad company. *Same, sec. 25.*

RHODE ISLAND The several street railway companies in this state accepting the provision of this chapter may hereafter increase their capital stock from time to time to meet the costs and
3374 expenditures actually made for extensions and for new construction and equipment, and the cost of such extensions or improvements shall be certified by the railroad commissioner, and all issues of capital stock for such purpose shall be subject to the approval of such officer. *Gen. Laws 1909, ch. 216, sec. 4.*

WISCONSIN The capital stock of any such corporation may be increased to such an amount as may by its stockholders be deemed necessary for the purchase or construction of any railroad which it may be legally empowered to purchase or construct, for additions to, or improvements of, its railroad or property for additional equipment which may be necessary in the operation of its railroad, for real estate that may be needed by said corporation for railway purposes, and for the purchase, construction, and equipment of any extension, branch, or addition to any railroad, the capital stock of which is owned or held in trust for said corporation, by a majority vote of all its stock, in person or by proxy at any annual meeting or at any meeting called by its directors for that purpose, by a notice in writing to each stockholder, to be served on him personally or by depositing the same in the post office, postage paid, properly directed to him at the
3375 post office nearest his usual place of residence, at least twenty days prior to such meeting. Such notice shall state the time and place of such meeting, its object, and the amount to which it is proposed to increase such capital stock. No vote in favor of such

increase shall take effect until the proceedings of such meeting, showing the names of all the stockholders voting therefor and the amount of stock owned by each, shall be entered upon the records of such corporation nor until the railroad commission shall have issued its certificate that such increase of stock is reasonably necessary to accomplish the objects of the incorporation of such railroad company. Every such corporation, so increasing its capital stock, shall file with the secretary of state, whenever issues of stock shall be made under this section, a report showing the amount issued and the purposes to which it has been, or is to be, devoted, which report shall be verified by the oath of the president or the general manager thereof, and of the chief engineer. *Laws 1909, ch. 530, sec. 1826.*

S. STOCK OR SCRIP DIVIDENDS.¹

ARIZONA, CALIFORNIA

See par. 718.

KANSAS, OHIO No common carrier or public utility shall declare any stock, bond or scrip dividend or divide the proceeds **2876** of the sale of any stocks, bond or scrip among its stockholders unless authorized by commission so to do. *Kas.—Laws 1911, ch. 238, sec. 35; Ohio—Laws 1911, no. 325. sec. 61 (public utility or railroad).*

WISCONSIN

See par. 4523.

T. SALE OF STOCK TO STOCKHOLDERS AND AUCTION CLAUSE.

MAINE

Whenever a railroad corporation which is in actual possession of and operating a railroad increases its capital stock under the provisions of the preceding section,² the new shares shall be offered proportionately to its stockholders at such price, not less than the par value thereof, as shall be determined by its stockholders. The directors, upon the approval of such increase as provided in the preceding section, shall cause written notice of such increase to be given to each stockholder of record upon the books of the company at the date of the vote to increase, stating the amount of the increase, the number of shares or fraction of shares to which, according to the proportionate number of his shares at the date of the vote to increase,

¹ The laws of many states prohibit stock or scrip dividends. The Kansas and Ohio legislation is peculiar because it appears to confer discretionary power on the commissions.

² Rev. Stats. 1903, ch. 51, sec. 20.

he is entitled, the price at which he is entitled to take them, and fixing a time not less than 15 days after the date of such vote to increase within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor. Provided, when the increase in the capital stock does not exceed four per cent. of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders, may sell the same at
3577 auction to the highest bidder at not less than the par value thereof. If, after the expiration of the notice above provided for, any shares of such stock remain unsubscribed for by the stockholders entitled to take them the directors may sell the same at auction. All shares of stock to be disposed of at auction under the provisions of this section shall be offered for sale to the highest bidder in the city of Boston, or in such city or town as may be prescribed by commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the time fixed for the sale, in such daily newspapers, not less than three in number, as may be prescribed by the commission. No shares shall be sold or issued for a less sum, to be actually paid in cash, than the par value thereof. Provided further, that the determination by the commission, under the provisions of the preceding section as to the amount of such increase, shall be based upon the price at which such stock is to be issued as fixed by the stockholders, and also provided that said commission shall refuse to approve any particular issue of stock if, in their opinion, the price fixed by the stockholders is so low as to be inconsistent with the public interest. *Rev. Stats. 1903, ch. 51, sec. 21, as amended by Acts 1909, ch. 32.*

MASSACHUSETTS If a corporation which owns or operates a railroad or street railway, a gas light, electric light, aqueduct or water company, or a corporation which is established for and is engaged in the business of transmitting intelligence by electricity, increases its capital stock, such new shares as are necessary to produce the amount of increased capital stock which has been authorized shall, except as provided in the following section, be offered proportionately to its stockholders at not less than the market value thereof at the time of increase, to be determined by the railroad commission in the case of a railroad corporation or street railway company, by the gas and electric

light commission in the case of a gas light or electric light company, and by the commissioner of corporations in the case of an aqueduct or water company or of a corporation which is established for and is engaged in the business of transmitting intelligence by electricity, taking into account previous sales of stock of the corporation and other pertinent conditions, which determination shall be in writing and with the date thereof shall be certified to and recorded in the books of the corporation. The directors, upon the approval of such increase as provided in section 24¹ and the determination of the market value as hereinbefore provided, shall cause written notice of such increase to be given to each stockholder who was such at the date of the vote to increase, stating the amount of such increase, the number of shares or fractions of shares to which he, according to the proportionate number of his shares at the date of such vote, is entitled, the price at which he is entitled to take them, and fixing a time, not less than 15 days after the date of such determination, within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor. *Rev. Laws 1902, ch. 109, sec. 30.*²

If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent. of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders, may, and if, after the expiration of the time limited in the notice required by the preceding section, any shares remain unsubscribed for by the stockholders entitled to take them, the directors shall sell them by auction to the highest bidder at not less than the par value thereof to be actually paid in cash. Such shares shall be offered for sale in the city of Boston or in such other city or town as may be prescribed by commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the sale in each of at least three of such daily newspapers as may be prescribed by such commission. No shares shall be sold or issued under this or the preceding section for a less amount to be actually paid in cash than the par value thereof. *Same, sec. 31.*²

Whenever the company shall issue additional stock, it shall be the duty of the gas and electric light commission in deciding

¹ Rev. Laws 1902, ch. 109, sec. 24.

² Sections 30 and 31 are repealed so far as they apply to railroads or railroad corporations and to street railways or street railway companies.

what amount of new stock is to be authorized, to place a value upon such new stock, which value shall be stated in their written decision, and before offering the new shares to the existing shareholders of the company, the company shall offer the new shares for sale by public auction in the city of Boston, in such manner, at such times, and subject to such conditions of sale as the company shall from time to time determine, subject however, to the approval of the gas and electric light commission: provided, that no bid at any such auction shall be accepted for a price less than the value placed upon the stock by the gas and electric light commission as aforesaid; and provided, further, that notice of the proposed sale of said stock by public auction together with the terms and conditions of sale shall be published in at least three newspapers in the city of Boston twice a week for not less than three successive weeks before the day of auction. *Acts 1906, ch. 422, sec. 7.*¹

When any stock which has been offered for sale by auction is not sold, the same shall be offered at the price so placed upon it by the gas and electric light commission to the stockholders of the company, in accordance with the provisions of section 30 of chapter 109 of the revised laws; provided, that any stock so offered and not accepted by the stockholders shall again be offered for sale by public auction, in accordance with the provisions of section 31 of chapter 109 of the revised laws; and provided, further, that if the new stock authorized does not exceed four per cent. of the existing capital stock of the company the same may be sold in accordance with the provisions of said section 31 without being first offered to the stockholders. *Same, sec. 8.*¹

If a corporation which owns or operates a railroad increases its capital stock, such new shares as are necessary to produce the amount of increased capital stock which has been authorized shall, except as provided in the following section, be offered proportionately to its stockholders at such price not less than the market value thereof at the time of increase, as may be determined by the railroad commission, taking into account previous sales of stock of the corporation and other pertinent conditions, which determination shall be in writing and with the date thereof shall be certified to and recorded in the books of the corporation. The directors, upon the approval of such increase as provided in section 65,² and the determination of the market value as herein-

¹ Boston Sliding Scale Act.

² Acts 1906, ch. 463, pt. II, sec. 65.

3302 before provided, shall cause written notice of such increase to be given to each stockholder of record upon the books of the corporation at the close of business on the date of such determination by commission, stating the amount of such increase, the number of shares or fractions of shares to which he, according to the proportionate number of his shares at the date of such determination, is entitled, the price at which he is entitled to take them, and fixing a time, not less than 15 days after the date of such determination by commission, within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor. *Acts 1906, ch. 463, pt. ii, sec. 69.*

If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent. of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders may sell them by auction to the highest bidder at not less than the par value thereof to be actually paid in cash. They may also so sell at public auction any shares, which, after the expiration of the time limited in the notice required by the preceding section, remain unsubscribed for by the stockholders entitled to take them. 3303 Such shares shall be offered for sale in the city of Boston, or in such other city or town as may be prescribed by the railroad commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the sale in each of at least three of such daily newspapers as may be prescribed by commission. No shares shall be sold or issued under this or the preceding section for a less amount to be actually paid in cash than the par value thereof. *Same, sec. 70.*

If a company which owns or operates a street railway increases its capital stock,¹ such new shares as are necessary to

¹ Acts 1906, Chapter 463, Part iii, section 103, authorizes a street railway company, for the purposes therein specified, to increase its capital stock or issue bonds secured by mortgage or otherwise to such an amount beyond the amounts fixed and limited by its agreement of association or its charter or by any special law, as the railroad commission shall determine to be required for the purposes specified and shall approve for such purposes, in accordance with the provisions of sections 107, 108, 111 and 112 of Part iii, and of sections 48 to 56, inclusive, of Part ii.

Sections 48 to 56 of Part ii prescribe the manner in which railroad corporations for the purposes therein specified may, in accordance with the provisions of sections 65 and 66 of Part ii, issue coupon or registered bonds, coupon notes or other evidences of indebtedness payable at periods of more than 12 months from the date thereof.

Under Laws 1909, ch. 485, sec. 1, street railway companies, for the purpose of supplying themselves with working capital, in addition to the purposes for which such companies may increase their capital stock or issue bonds as provided in section 103, of Part iii of Chapter 463, of Acts 1906, may, in accordance with the provisions of sections 107, 108, 110, 111, and 112 of Part iii of said chapter, or of Chapter 636 of Acts 1908, as amended by Chapter 369 of Acts 1909, and of sections 48 to 56 of Part ii of Chapter 463 of Acts 1906, increase their capital stock to an amount not exceeding five per cent. of the par value of their capital stock then outstanding, or may issue bonds to an amount not more than the railroad commission shall determine will be properly required for such purpose and as commission

produce the amount of increased capital stock which has been authorized shall, except as provided in the following section, be offered proportionately to its stockholders at such price not less than the market value thereof at the time of increase, as may be determined by the railroad commission, taking into account previous sales of stock of the company and other pertinent conditions, which determination shall be in writing and with the date thereof shall be certified to and recorded in the books of the company. The directors, upon the approval of such increase as provided in section 107,¹ and the determination of the market value as hereinbefore provided, shall cause written notice of such increase to be given to each stockholder of record upon the books of the company at the close of business on the date of such determination by commission, stating the amount of such increase, the number of shares or fractions of shares to which he, according to the proportionate number of his shares at the date of such determination, is entitled, the price at which he is entitled to take them, and fixing a time, not less than 15 days after the date of such determination by commission, within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor. *Acts 1906, ch. 463, pt. iii, sec. 111.*

If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent. of the existing capital stock of the company, the directors, without first offering the same to the stockholders, may sell them by auction to the highest bidder at not less than the par value thereof to be actually paid in cash. They may also so sell at public auction any shares, which, after the expiration of the time limited in the notice required by the preceding section, remain unsubscribed for by the stockholders entitled to take them. Such shares shall be offered for sale in the city of Boston, or in such other city or town as may be prescribed by the railroad commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the sale in each of at least three of such daily newspapers as may be prescribed by commission. No shares shall be sold or issued under this or the preceding section for a less

shall approve as being consistent with the interests of the public and of the stockholders and as not unreasonably reducing the security of any bond previously issued, beyond the amounts fixed and limited by their agreement of association or by the provisions of any general or special law.

¹ Acts 1906, ch. 463, pt. iii, sec. 107.

amount to be actually paid in cash than the par value thereof.
Same, sec. 112.

Any railroad, street railway, electric railroad or elevated railway company which is in actual possession of and operating a railroad or railway shall, upon any increase of its capital stock, except as provided in the following section, offer the new shares proportionately to its stockholders at such price not less than the par value thereof as may be determined by its stockholders. The directors upon the approval of such increase, as provided in section 65¹ of part II and section 107² of part III of chapter 463 of the acts of 1906, shall cause written notice of such increase to be given to each stockholder of record upon the
2386 books of the company at such date as shall be designated by vote of the directors passed after the approval by the commission of such issue, stating the amount of the increase, the number of shares or fractions of shares to which, according to the proportionate number of his shares at said date designated by vote of the directors, he is entitled, the price at which he is entitled to take them, and fixing a time not less than 15 days after said date designated by vote of the directors within which he may subscribe for such additional stock. Each stockholder may within the time limited subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor. *Acts 1908, ch. 636, sec. 1.*

If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent. of the existing capital stock of the company, the directors, without first offering the same to the stockholders, may sell shares by auction to the highest bidder, at not less than the par value thereof, to be actually paid in cash. They may also so sell at public auction any shares, which, after the expiration of the time limited in the notice required by the preceding section,
2387 remain unsubscribed for by the stockholders entitled to take them. Such shares shall be offered for sale in the city of Boston, or in such other city or town as may be prescribed by the railroad commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the sale in each of at least three of such daily newspapers as may be prescribed by commission. No shares shall be sold or issued under this or the preceding section for a less

¹ Acts 1906, ch. 463, pt. ii., sec. 65.

² Acts 1906, ch. 463, pt. iii., sec. 107.

amount to be actually paid in cash than the par value thereof.
Same, sec. 2.

The determination by the railroad commission, under the provisions of section 65 ¹ of said part II and section 107 ² of said part III, as to the amount of stock which is reasonably necessary for the purpose for which such stock has been authorized shall, **3306** in the case of the corporations described in this act, be based upon the price at which such stock is to be issued as fixed by the stockholders: Provided, that the board shall refuse to approve any particular issue of stock if, in the opinion of the board, the price fixed by the stockholders is so low as to be inconsistent with the public interest. *Same, sec. 3.*

A gas or electric light company shall, upon any increase of its capital stock, except as provided in the following section, offer the new shares proportionately to its stockholders at such price, not less than the par value thereof, as may be determined by its directors. The vote of the gas and electric light commission, as provided in section 24 ³ of chapter 109 of the revised laws, as to the amount of stock which is reasonably necessary for the purpose for which such increase has been authorized shall be based on the price fixed as hereinbefore provided, unless commission is of opinion that such price is so low as to be inconsistent with the public interest, in which case it may determine **3309** the price at which such shares may be issued. No application for an issue of stock under said section 24 ³ shall be made unless authorized by vote of the stockholders passed not more than four months prior to such application, but the vote of the stockholders to increase the capital stock may be passed before or after the action of commission under said section 24.³ All votes and proceedings relative to the increase and all rights of the stockholders to subscribe for the new shares shall become void unless the directors, after the vote to increase the capital stock and within 60 days after the final action of the board, shall cause written notice of such increase to be given as provided by law. *Acts 1909, ch. 477, sec. 1, as amended by Acts 1910, ch. 374.*

If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent. of the existing stock of the company, the directors, without first offering the same to the stockholders, may sell the shares by auction or by tender to the highest bidder in such manner, at

¹ Acts 1906, ch. 463, pt. ii., sec. 65.

² Acts 1906, ch. 463, pt. iii., sec. 107.

³ Rev. Laws 1902, ch. 109, sec. 24.

such times and upon such terms, not less than the par value thereof to be actually paid in cash, as the directors shall determine. They shall also so sell at public auction any shares which, **3390** under the preceding section remain unsubscribed for by the stockholders entitled to take them. Such shares shall be offered for sale in the city of Boston or in such other city or town as may be prescribed by the board of gas and electric light commissioners, and notice of the time and place of the sale shall be published at least five times, during the ten days immediately preceding the sale, in each of at least three of such daily newspapers as may be prescribed by the said commissioners. No shares shall be sold or issued under this or the preceding section for a less amount to be actually paid in cash than the par value thereof. *Same, sec. 2.*

NEW HAMPSHIRE Whenever a railroad corporation or public utility shall increase its capital stock it shall, except as herein-after provided, offer the new shares proportionately to its stockholders at such price not less than the par value thereof as shall have been determined by its stockholders in their vote for the issue of the same. The directors shall cause written notice of the increase in capital stock to be given to each stockholder of record upon the books of the corporation at the date designated by the directors at a meeting following the order of the commission authorizing the issue, which notice shall state the amount of the increase, the number of shares or fractions of shares to which the **3391** stockholder is entitled, the price at which he is entitled to take them, and shall fix a time not less than 15 days after the date so designated by the directors within which he may subscribe therefor. Each stockholder may within the time so limited subscribe for his proportion of the new stock which shall be paid for in cash before the issue of a certificate. The determination by the commission of the amount of stock reasonably requisite for the purpose for which the issue is made shall be based upon the price at which such stock is to be offered to stockholders as fixed by the vote of the stockholders; provided, however, that the commission shall refuse to authorize any particular issue of stock if in its opinion the price fixed by the stockholders is so low as to be inconsistent with the public interests. *Laws 1911, ch. 164, sec. 14(c).*

When an increase in capital stock does not exceed four per cent. of the existing capital stock of the corporation the directors may, without first offering the same to the stockholders, sell the new shares by public auction to the highest bidder at not less than par value to be actually paid in cash. If after the expira-

tion of the notice to stockholders hereinbefore provided any shares of the new issue of stock remain unsubscribed by stock-
3392 holders entitled to take them, the directors shall sell the same by public auction to the highest bidder at not less than par value to be actually paid in cash. All shares of stock to be disposed of by public auction to the highest bidder under the provisions of this act shall be offered for sale in such city or town as may be prescribed by the commission, and the notice of the time and place of sale shall be published at least five times immediately preceding the time fixed for the sale in such newspapers, not less than three in number, as may be prescribed by the commission. *Same, sec. 14(d).*

U. PENALTIES FOR VIOLATIONS OF CAPITALIZATION PROVISIONS.

ARIZONA, CALIFORNIA

Every public utility¹ which, directly or indirectly, issues or causes to be issued, any stock or stock certificate, or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the constitution of this state, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein
3393 provided, or to any purpose specified in the commission's order in excess of the amount of said order authorized for such purpose, is subject to a penalty of not less than \$500 nor more than \$20,000 for each offense. *Ariz.—Sess. Laws 1912, ch. 90, sec. 52(e); Cal.—Stats. 1911, 1st. ex.sess., ch. 14, sec. 52(e).*

Every officer, agent or employe of a public utility,¹ and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate, or bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this act, or of the constitution of this state, or who, in any proceeding before the commission, knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation, which said statement or representation so made, filed or caused

¹ "Public service corporation," in Arizona.

to be filed may tend in any way to influence the commission to make an order authorizing the issue of any stock or stock certificate, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission, in any proceeding, tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this act, negotiates, or causes the same to be negotiated, shall be guilty of a felony (and on conviction thereof shall be imprisoned in the state penitentiary for a term of not less than two years and not more than ten years—Arizona only). *Ariz.—Same, sec. 52(f); Cal.—Same, sec. 52(f).*

GEORGIA

See par. 3245.

KANSAS

Any common carrier or public utility governed by the provisions of this act, or any agent, director or officer thereof, who shall, directly or indirectly, issue or cause to be issued any stock, certificate of stock, bonds or other evidences of indebtedness contrary to the provisions of this act, or who shall apply the proceeds from the sale thereof to any purpose other than that specified in the certificate of the commission, as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$500 and not more than \$5,000, or by imprisonment in the county jail not more than one year or by both such fine and imprisonment. *Laws 1911, ch. 238, sec. 26.*

MASSACHUSETTS A director, treasurer or other officer or agent of a railroad corporation, who knowingly votes to authorize the issue of, or knowingly signs, certifies or issues, stock or bonds contrary to the provisions of sections 65 and 66, or who knowingly votes to authorize the application, or knowingly applies

3396 the proceeds, of such stock or bonds contrary to the provisions of said sections, or who knowingly votes to assume or incur, or knowingly assumes or incurs in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment. *Acts 1906, ch. 463, pt. ii, sec. 68.*

A director, treasurer or other officer or agent of any corporation named in section 24 who knowingly votes to authorize the issue of, or knowingly signs, certifies or issues, stock or bonds contrary to the provisions of the four preceding sections, or who knowingly votes to authorize the application, or knowingly applies the proceeds, of such stock or bonds contrary to the provisions of said sections, or who knowingly votes to assume or incur, or knowingly assumes or incurs in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. *Rev. Laws 1902, ch. 109, sec. 28.*

A director, treasurer or other officer or agent of a street railway company who knowingly votes to authorize the issue of, or knowingly signs, certifies or issues, stock or bonds contrary to the provisions of the three preceding sections, or who knowingly votes to authorize the application, or knowingly applies the proceeds, of such stock or bonds contrary to the provisions of said sections, or who knowingly votes to assume or incur, or knowingly assumes or incurs in the name or behalf of such company, any debt or liability except for the legitimate purposes of the company shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. *Acts 1906, ch. 463, pt. iii, sec. 110.*

MICHIGAN

Any officer, director, agent or employe of any person, corporation or association, who shall cause to be issued any stocks, bonds, notes or other evidences of indebtedness payable at periods of more than 12 months after the date thereof or who shall in any way aid in the issue of such stocks, bonds, notes or other evidences of indebtedness, not authorized by the commission, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state

prison not less than one year nor more than five years. *Pub. Acts 1909, no. 144, sec. 3.*

NEBRASKA

Every common carrier and public service corporation and all officers and agents of any common carrier or public service corporation shall obey, observe and comply with every order made by the commission, under the authority of this act, so long as the same shall be and remain in force. Any common carrier or public service corporation which shall violate any provisions of this act, or which fails, omits, or neglects to obey, 3400 observe or comply with any order or direction or requirement of the commission under the provisions of this act, shall forfeit to the people of the state of Nebraska, not to exceed the sum of \$5,000 for each and every offense; every violation of any such order or direction or requirement of this act, shall be a separate and distinct offense, and, in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense. *Acts 1909, ch. 108, sec. 2.*

Every officer and agent of any common carrier or public service corporation who shall violate, or who procures, aids or abets any violation by any such common carrier or corporation of any provision of this act, or who shall fail to obey and observe and comply with any order of the commission or any provision 3401 of an order of the commission under the terms of this act, or who procures, aids, abets any such common carrier or corporation in its failure to obey, observe and comply with any such order or provision, be deemed guilty of a felony and on conviction thereof, shall be punished by confinement in the penitentiary for a period of not less than one and not longer than ten years. *Same, sec. 3.*

OHIO

Any director, president, secretary, manager, officer or other official of any public utility or railroad who shall knowingly make any false statement to secure the issue of any stock, bond, note or other evidence of indebtedness, or who shall, by such false statement, procure the order of the commission for the issue of any stock, bond, note or other evidence 3402 of indebtedness, or issue with knowledge of such fraud, negotiate, or cause to be negotiated any such stock, bond, or other evidences of indebtedness in violation of this act, shall upon conviction thereof, be fined not less than \$500, or be imprisoned in the penitentiary for not less than one year or more than ten years. *Laws 1911, no. 325, sec. 60.*

WISCONSIN

Any public service corporation as herein defined, or any agent, director, or officer thereof, who shall directly or indirectly, issue or cause to be issued, any stocks, certificates of stock, bonds, notes, or other evidences of indebtedness, contrary to the provisions of this act, or who shall apply the proceeds from the sale thereof to any purposes other than that specified in the certificate of the commission, as herein provided, shall forfeit and pay into the state treasury not less than \$500 nor more than \$10,000 for each offense. *Laws 1911, ch. 593, sec. 1753-17.*

Each and every director, president, secretary, or other official or agent of any such public service corporation, who shall make any false statement to secure the issue of any stock, certificates of stock, bond, note, or other evidence of indebtedness, or who shall by false statement knowingly made, procure of the commission the making of the certificate herein provided, or issue with knowledge of such fraud, negotiate, or cause to be negotiated any such bond or other issue, in violation of these statutes, shall be guilty of a felony and upon conviction thereof, shall be punished by a fine of not less than \$500, or by imprisonment in the state prison for a term of not less than one nor more than ten years, or by both such fine and imprisonment in the discretion of the court. *Same, sec. 1753-18.*

CHAPTER XIII

Intercorporate Relations

SCOPE NOTE

This chapter includes grants of power authorizing commissions to supervise the relations of utilities between themselves with regard to finance and organization. Provisions of general corporation law regulating intercorporate relations have been excluded. For provisions regulating competition between utilities by limiting the exercise of franchise privileges, see ch. xi, on franchises. For provisions incidentally involving questions of leases, consolidations and reorganizations, see ch. xii, on stock and bond issues. For provisions dealing with through routes, joint rates and the apportionment thereof between connecting carriers, street railway transfers, and physical connection of telephone and telegraph companies, see ch. iv, on establishment and change of rates. For provisions prescribing publicity for leases, contracts and arrangements between utilities, see ch. v, on publicity of rates. For provisions dealing with the duty to provide equipment and render service as between utilities, and for those dealing with the joint use of facilities, see ch. vii, on service. For provisions prescribing general procedure to be followed in the exercise of commission authority, see ch. xiv, on commission procedure and practice. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

- A. Assignment, lease, mortgage, sale or transfer of franchises and other property..... 908
- B. Purchase and sale of stocks or bonds of public utilities..... 915
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A. ASSIGNMENT, LEASE, MORTGAGE, SALE OR TRANSFER OF FRANCHISES AND OTHER PROPERTY.

ARIZONA, CALIFORNIA

No railroad, street railroad, pipe line, gas, electrical, telephone, telegraph or water corporation shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant or system, necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate its railroad, street railroad, line, plant or system, or franchises or permits or any part thereof, with any other public utility,¹ without having first secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission
3408 and approval of the commission to the exercise of a franchise or permit under section 50 of this act, or the sale, lease, assignment, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease or other disposition by any public utility¹ of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility¹ shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value. *Ariz.—Sess. Laws 1912, ch. 90, sec. 51(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 51(a).*

CONNECTICUT Any company may make lawful contracts with any other company with whose railroad its tracks may
3406 connect or intersect, in relation to its business or property, and

¹ "Public service corporation," in Arizona.

may take a lease of the property or franchise of, or lease its property or franchises to any such company. *Gen. Stats. 1902, sec. 3702.*

KANSAS

No franchise granted to a common carrier or public utility governed by the provisions of this act shall be assigned, transferred or leased, nor shall any contract or agree-
3407 ment with reference to or affecting such franchise or right there-
under be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by commission. *Laws 1911, ch. 238, sec. 36.*

MARYLAND

No franchise, nor any right to or under any franchise to own or operate a railroad or street railroad, shall be assigned, transferred or leased, nor shall any contract, or agree-
ment with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by
3408 the commission. The permission and approval of the commission to the exercise of a franchise under this section, or to the assign-
ment, transfer or lease of a franchise under this section, shall not be construed to revive or validate any lapsed or invalid franchise, or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. *Laws 1910, ch. 180, sec. 26.*

No gas or electrical corporation shall transfer or lease its franchise, works or system, or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the commission. The permission and approval of the com-
3409 mission to the exercise of a franchise under this act, or to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or in-
valid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. *Same, sec. 35.*

MASSACHUSETTS

A lease or purchase and sale of the franchise and property of a railroad corporation, or street railway company, and a consolidation of two or more railroad corporations, or street railway companies, or a contract that either corporation shall perform all the transportation upon and over the road of the other, whether authorized by general laws or a special act, shall not be valid or binding until the terms thereof shall, after public

notice and a hearing, have been approved by the railroad commission, and a certificate signed by said commission, setting forth
2410 the vote of approval, shall have been filed in the office of the secretary of the commonwealth. Said board shall announce its decision within 30 days after the final hearing upon the application of any railroad corporation or street railway company for permission to lease or sell to, consolidate with or purchase the franchise and other property of, any other railroad corporation or street railway company, or to contract with any other railroad corporation or street railway company that either corporation shall perform all the transportation upon and over the road of the other. *Acts 1906, ch. 463, pt. i, sec. 67, as amended by Acts 1907, ch. 585.*

Two railroad corporations, which are incorporated under the laws of this commonwealth, and whose railroads enter upon or connect with each other, may contract that either corporation shall perform all the transportation upon and over the railroad of the other; and any such corporation may lease its railroad to any other such corporation; but the facilities for travel and business on either of the railroads of said corporations shall not thereby be diminished. Such leases shall be upon such terms as the directors agree, and as majority in interest of the stockholders of both corporations at meetings called for the purpose approve, subject to the provisions of section 67 of part I of this act. The income arising from such contracts or leases shall be subject to the provisions of law relative to the right of
2411 the commonwealth to purchase the railroads of the railroad corporations or to reduce their tolls, in the same manner as that arising from the use of the railroads. Copies of such contracts or leases shall be deposited with the railroad commission, and full statement of the facts shall be set forth in the next annual return of such corporations. The provisions of this section shall not authorize a lease or contract between two railroad corporations, each of which has a terminus in the city of Boston. The railroads of two railroad corporations shall be considered to enter upon or connect with each other, within the meaning of this section, if one of such railroads enters upon, connects with, or intersects a railroad leased to the other or operated by it under a contract as herein authorized. *Acts 1906, ch. 463, pt. ii, sec. 209, as amended by Acts 1907, ch. 585, sec. 8.*

Two street railway companies, incorporated under the laws of this commonwealth, whose railways connect with or intersect

each other or together form a continuous line, may contract that either company shall perform all the transportation upon and over the whole or any part of the railway of the other; or any such company may lease its franchise, property and railway to any other such company; but the facilities for travel on either of the railways of said companies shall not be thereby diminished or the rates of fare increased. Such contract or lease shall not be valid or binding until its terms have been agreed to by a majority of the directors, and have been approved, at meetings called for the purpose, by a vote of a majority in interest of the stockholders of each of said companies, and by the railroad commission as required by section 67 of part I. The income arising from such contracts or leases shall be subject to the provisions of law relative to the reduction of fares in the same manner as that arising from the use of the railways. Such railways shall be considered as connecting with or intersecting each other, or forming a continuous line, if one of them connects with or intersects or forms a continuous line with a railway leased to or operated by the other under a contract authorized by the provisions of this section. *Acts 1906, ch. 463, pt. iii, sec. 55.*

2412 A gas company shall not transfer its franchise, lease its works or contract with any person, association or corporation to carry on its works, without the authority of the general court. *Rev. Laws 1902, ch. 121, sec. 13.*

2414 Said gas companies so authorized by the gas and electric light commission may purchase or lease and use the property, licenses, rights, privileges and franchises of any electric light company which is engaged in the business of furnishing electric light or power in the territory in which such gas company may be authorized to furnish such light and power. *Same, sec. 22.*

A gas company¹ may purchase the franchise and property of another gas company whose gas mains are in the same or contiguous municipalities, or may consolidate with such other gas company, and such other gas company may sell and convey its franchise and property to, or may consolidate with, such first-mentioned gas company; and an electric light company¹ may purchase the franchise and property of another electric light company whose lines are in the same or contiguous municipalities, or

¹ In this act "gas company" means any corporation organized under the laws of this commonwealth for the purpose of making or selling gas for light, heat or power, and actually engaged in that business, including such of said corporations as are also duly authorized to generate and furnish electricity for light and power; and "electric light company" means any corporation organized under the laws of this commonwealth for the purpose of making or selling electricity only for light, heat or power, and actually engaged in that business. *Acts 1908, ch. 529, sec. 1.*

may consolidate with such other electric light company, and such other electric light company may sell and convey its franchise and property to, or may consolidate with, such first-mentioned electric light company: Provided, that no such purchase and sale or consolidation shall be valid or binding until the terms thereof have been approved, at meetings called for the purpose, by a vote of at least two-thirds in interest of the stockholders of each of the contracting companies, and until the gas and electric light commission, after notice and a public hearing, have determined that the facilities for furnishing and distributing light, heat and power will not thereby be diminished and that such purchase and sale or consolidation and the terms thereof are consistent with the public interest. *Acts 1908, ch. 529, sec. 2.*

No electric light company shall purchase the franchise or property of, or consolidate with, a gas company; and no gas company shall purchase the franchise or property of, or consolidate with, an electric light company; provided, that a gas company authorized to engage in the business of generating and furnishing electricity for light and power under the provisions of section 14 of chapter 121 of the revised laws may, with the approval of gas and electric commission, exercise the authority conferred by section 22 of said chapter, and may, with the approval of commission and subject to the provisions of sections three and four hereof, so far as the same may be applicable, sell its locations and the property used in its business of generating and furnishing electricity for light and power to an electric light company whose lines are in the same or in a contiguous municipality. *Same, sec. 5, as amended by Acts 1909, ch. 316, sec. 1.*

Nothing contained in this act shall be construed as authorizing the consolidation of the Boston Consolidated Gas Company and The Edison Electric Illuminating Company of Boston. *Same, sec. 6.*

All applications for the approval by the gas and electric light commission of purchases and sales or consolidations under the provisions of chapter 529 of the acts of 1908, or of the preceding section, shall be filed with the commission within four months after the passage by the contracting companies of votes authorizing such purchase and sale or consolidation. *Acts 1909, ch. 316, sec. 2.*

NEW HAMPSHIRE No franchise nor any right to or under any franchise, to own or operate a railroad shall be assigned, trans-

ferred or leased, nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by the commission. *Laws 1911, ch. 164, sec. 12(b).*

No public utility shall transfer or lease its franchise, works or system or any part of such franchise, works or system exercised or located in this state to any other person or corporation or contract for the operation of its works and system located in this state until the commission shall make an order assenting thereto. *Same, sec. 13(b).*

NEW JERSEY No public utility as herein defined shall without the approval of the commission sell, lease, mortgage, or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof; nor merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other public utility as herein defined. Every sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in violation of any of the provisions hereof shall be void and of no effect. Nothing herein contained shall be construed in any wise to prevent the sale, lease or other disposition by any public utility as herein defined of any of its property in the ordinary course of its business. *Laws 1911, ch. 195, sec. 18(h).*

NEW YORK Provisions identical with pars. 3408, 3409. *Laws 1910, ch. 480, sec. 54(1) (railroads and street railroads), sec. 70 (gas and electrical corporations).*

No franchise or any right to or under any franchise to own or operate a telegraph line or telephone line shall be assigned, transferred or leased, nor shall any contract or agreement hereafter made with reference to or affecting any such franchise or right be valid or of any force or effect whatever unless the assignment, transfer, lease, contract or agreement shall have been approved by the commission. No franchise or right to or under any franchise to own or operate a telegraph line or telephone line shall be assigned, transferred or leased to or owned or operated by any foreign corporation. *Same, sec. 99(2).*

The approval of the commission to the exercise of a franchise or to the assignment, transfer or lease of a franchise shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privilege con-

tained in the grant of any franchise or to waive any forfeiture.
Same, sec. 99(3).

OHIO

With the consent and approval of the commission, but not otherwise: (a) Any two or more public utilities, furnishing a like service or product and doing business in the same municipality or locality within this state, or any two or more public utilities whose lines intersect or parallel each other
3425 within this state, may enter into contracts with each other that will enable such public utilities to operate their lines or plants in connection with each other. (b) Any public utility may purchase, or lease the property, plant or business of any other such public utility. (c) Any such public utility may sell or lease its property or business to any other such public utility. *Laws 1911, no. 325, sec. 63.*

The proceedings¹ for obtaining the consent and approval of the commission for such authority, shall be as follows: There shall be filed with the commission a petition, joint or otherwise, as the case may be, signed and verified by the president and secretary of the respective companies, clearly setting forth the object and purposes desired, stating whether or not it is for the purchase, sale, lease or making of contracts or for any other purpose in this section provided and also the terms and
3426 conditions of the same. The commission shall, upon the filing of such petition, if it deem the same necessary, fix a time and place for the hearing thereof. If, after such hearing or in case no hearing is required, the commission is satisfied that the praye of such petition should be granted and the public will thereby be furnished adequate service for a reasonable and just rate, rental, toll, or charge therefor, it shall make such order in the premises as it may deem proper and the circumstances require, and thereupon it shall be lawful to do the things provided for in such order. *Same.*

All such contracts, leases, purchases, sales or consolidations
3427 not made pursuant to the provisions of this act or contrary hereto shall be void and of no effect. *Same, sec. 65.*

See also pars. 3446, 3448.

¹ The same proceedings are prescribed for obtaining the consent and approval of the commission for authority to purchase the stock of another public utility. See par. 3440.

B. PURCHASE AND SALE OF STOCKS OR BONDS OF PUBLIC UTILITIES.

ARIZONA, CALIFORNIA

No public utility¹ shall hereafter purchase or acquire, take or hold, any part of the capital stock of any other public utility,¹ organized or existing under or by virtue of the laws of this state, without having been first authorized to do so by the commission. Every assignment, transfer, contract or
3429 agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect, and no such transfer shall be made on the books of any public utility.¹ Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. *Ariz.—Sess. Laws 1912, ch. 90, sec. 51(b); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 51(b).*

KANSAS

No common carrier or public utility governed by the provisions of this act, domestic or foreign, shall hereafter
3430 purchase or acquire, take or hold any part of the capital stock, bonds or other forms of indebtedness of any competing public utility or common carrier, either as owner or pledge unless authorized by the commission. *Laws 1911, ch. 238, sec. 27.*

MASSACHUSETTS If a foreign corporation which owns or controls a majority of the capital stock of a domestic street railway,² gaslight or electric light corporation issues stock, bonds or other evidences of indebtedness based upon or secured by the property, franchise or stock of such domestic corporation, unless such issue is authorized by the law of this commonwealth, the supreme
3431 judicial court shall have jurisdiction in equity in its discretion to dissolve such domestic corporation. If it appears to the attorney general that such issue has been made, he shall institute proceedings for such dissolution and for the proper disposition of such corporation. The provisions of this section shall not affect the right of foreign corporations, their officers or agents, to issue stock and bonds in fulfilment of contracts existing on July 14, 1894. *Rev. Laws 1902, ch. 126, sec. 11.*

MARYLAND

No railroad or street railroad corporation, domestic or foreign, shall hereafter purchase or acquire, take or

¹ "Public service corporation," in Arizona.

² This section is repealed so far as it applies to street railways or street railway companies.

hold, any part of the capital stock of any railroad corporation or street railroad corporation, or other common carrier organized or existing under or by virtue of the laws of this state, unless authorized so to do by the commission, and save where stock shall be transferred or held for the purpose of collateral security only
2432 with the consent of the commission, no stock corporation of any description, domestic or foreign, other than a railroad corporation, or street railroad corporation, shall purchase or acquire, take or hold more than ten per cent. of the total capital stock issued by any railroad corporation, or street railroad corporation, or other common carrier organized or existing under or by virtue of the laws of this state. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. *Laws 1910, ch. 180, sec. 26.*

Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation, to any corporation, in violation of any provisions of this act, shall
2433 be void and of no effect, and no such transfer or assignment shall be made upon the books of any such railroad corporation or street railroad corporation, or shall be recognized as effective for any purpose. *Same.*

No gas or electrical corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for or engaged in the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, unless authorized to do so by the commission. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission, no stock corporation of any description, domestic or foreign, other than a gas or electrical corporation, shall purchase or acquire,
2434 take or hold, more than ten per cent. of the total capital stock issued by any gas corporation or electrical corporation organized or existing under or by virtue of the laws of this state. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. Every contract, assignment, transfer, agreement for transfer of any stock by or through any person or corporation to any corporation in violation of any provision of this act, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation or electrical corporation, or shall be recognized as effective for any purpose. *Same, sec. 35.*

NEW HAMPSHIRE No public utility shall directly or indirectly acquire the stocks or bonds of any other corporation incorporated in or doing business in this state and engaged or preparing to engage in the same or a similar business unless authorized to do so by order of the commission; provided, however, that nothing in this act shall in any manner prevent a public utility being in fact the owner at the time of the passage of this act of the majority of the capital stock of any other public utility or
3426 leasing or operating such other public utility from acquiring the balance or all of the outstanding capital stock of such other public utility, a majority of which stock is so owned or which is so leased or operated. Every contract, assignment, transfer, or agreement for transfer of any stock by or through any person or corporation to any corporation in violation of any provision of this section shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any public utility, or shall be recognized as effective for any purpose. *Laws 1911, ch. 164, sec. 13(c).*

NEW JERSEY No public utility as herein defined incorporated under the laws of this state shall sell, nor shall any such public utility make or permit to be made upon its books any transfer of any share or shares of its capital stock, to any other public utility as herein defined, unless authorized to do so by the commission. Nor shall any public utility as herein defined incorporated under the laws of this state sell any share or shares of its capital stock or make or permit any transfer thereof to be made upon its books, to any corporation, domestic or foreign, result of which sale or
3426 transfer in itself or in connection with other previous sales or transfers shall be to vest in such corporation a majority in interest of the outstanding capital stock of such public utility corporation unless authorized to do so by the commission. Every assignment, transfer, contract or agreement for assignment or transfer by or through any person or corporation to any corporation in violation of any of the provisions hereof shall be void and of no effect, and no such transfer shall be made on the books of any public utility corporation. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. *Laws 1911, ch. 195, sec. 19.*

NEW YORK No railroad, street railroad, or electrical corporation, domestic or foreign, shall hereafter purchase or acquire, take or hold, any part of the capital stock of any railroad cor-

poration or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state, unless authorized so to do by the commission empowered by this act to give such consent; and save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this chapter to give such consent, no stock corporation of any description, domestic or foreign, other than a railroad, street railroad, or electrical corporation, shall purchase or acquire, take, or hold, more than ten per cent. of the total capital stock issued by any railroad or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any railroad corporation or street railroad corporation

3437 may with the consent of the commission acquire and hold the remainder of the capital stock of such railroad corporation or street railroad corporation or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this chapter, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such railroad corporation or street railroad corporation, or shall be recognized as effective for any purpose. *Laws 1910, ch. 480, sec. 54(2).*

No such corporation¹ shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, neither shall any street railroad corporation acquire the stock or bonds of any electrical corporation, unless authorized so to do by the commission. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this chapter to give such consent, no stock corporation of any description, domestic or foreign, other than a gas or electrical or street railroad corporation, shall

¹ Gas or electrical.

purchase or acquire, take or hold, more than ten per cent. of the total capital stock issued by any gas corporation or electrical corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any gas or electrical corporation may with the consent of the commission acquire and hold the remainder of the capital stock of such gas or electrical corporation or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation, or electrical corporation, or shall be recognized as effective for any purpose. *Same, sec. 70.*

Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation, domestic or foreign other than a telegraph corporation or telephone corporation, shall, without the consent of the commission, purchase or acquire, take or hold more than ten per cent. of the total capital stock issued by any telegraph corporation or telephone corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any telegraph corporation or telephone corporation may, without the consent of the commission, acquire and hold the remainder of the capital stock of such telegraph corporation or telephone corporation, or any portion thereof. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or

corporation to any corporation in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such telegraph corporation or telephone corporation, or shall be recognized as effective for any purpose. *Same, sec. 100.*

OHIO

With the consent and approval of the commission, but not otherwise; any public utility may purchase the stock of any other public utility.¹ *Laws 1911, no. 325, sec. 63.*

All such contracts, leases, purchases, sales or consolidations not made pursuant to the provisions of this act or contrary hereto shall be void and of no effect. *Same, sec. 65.*

C. AUTHORITY OF PUBLIC UTILITIES TO CONSOLIDATE.

ARIZONA, CALIFORNIA

See par. 3405.

MASSACHUSETTS The presidents, or a majority of the boards of directors or the holders of not less than one-third in interest of the capital stock of two or more railroad corporations, may apply to the railroad commission for its determination as to whether the consolidation of the railroads of such corporations is consistent with the public interest. If the commission, after public notice and a hearing, shall find that such consolidation is consistent with the public interest, it shall report its findings to the general court together with drafts of a law or laws to authorize such consolidation upon the agreement of the corporations to be consolidated, and after ratification by a vote of not less than two-thirds in interest of the stockholders in each, and under terms and conditions which will effectually prevent any decrease in the facilities for transportation on the railroad of either of such corporations or any increase in the rates for passengers or freight by the said consolidation, and which will, in the opinion of the commission, secure to the commonwealth adequate control over the organization, conduct and management of the said corporations and railroads, and upon such other terms and conditions as may seem to the board desirable and proper. *Laws 1907, ch. 585, sec. 3.*

See also pars. 3410, 3415, 3416, 3417, 3418.

¹ The proceedings for obtaining the consent and approval of the commission for such authority are defined in the same section. *See par. 3426.*

MICHIGAN

See par. 1188.

NEW JERSEY

See par. 3421.

OHIO

With the consent and approval of the commission, but not otherwise, any two or more telephone companies, 3443 defined in this act and doing business in this state, may consolidate with each other, when such telephone companies shall have complied with the orders and requirements of the commission and the provisions of this act. *Laws 1911, no. 325, sec. 64.*

Such telephone companies shall file with the commission a joint petition for such consolidation, signed and verified by the president and secretary of the respective companies, in which 3444 shall be set forth in detail, all of the terms, conditions and proceedings pertaining to such consolidation and in such form as the commission may require, and thereupon the commission shall fix a time and place for the hearing of such petition. *Same.*

If, after such hearing, the commission is satisfied that such consolidation will promote public convenience, and will furnish the public adequate service for a reasonable rate, rental, toll or charge therefor, it shall make an order authorizing such consolidation, which order before taking effect shall be filed with the 3445 secretary of state. Other proceedings relating to such consolidation shall be in the manner and with the effect, not inconsistent with the provisions of this act, as is provided for in the consolidation of railroad companies under the laws of this state. *Same.*

No consolidation, purchase, lease or contract by which two or more telephone companies merge or operate their lines or plants jointly or in connection with each other, shall become valid or 3446 effective until after the commission shall have ascertained and determined the valuation as provided in this act upon which the rates, tolls, charges and rentals are based and also shall have fixed and determined such rates, tolls, charges and rentals so to be charged. *Same.*

3447 All valuations so ascertained and determined shall be at all times open to public inspection. *Same.*

All such contracts, leases, purchases, sales or consolidations 3448 not made pursuant to the provisions of this act or contrary hereto shall be void and of no effect. *Same, sec. 65.*

WISCONSIN

No public service corporation shall purchase, directly or indirectly, or in any way acquire the property of any other public service corporation or of any person furnishing

service to the public, for the purpose of effecting a consolidation, except that the property of such corporation or person shall
3449 first be valued as provided in subsection 5 of section 1753-9 of the statutes, and then only at a sum not to exceed the value found and determined by the commission and stated in the certificate of authority issued to such corporation for the issuance of stocks, certificates of stock, bonds, notes, or other evidences of indebtedness. *Laws 1911, ch. 593, sec. 1753-11(2).*

CHAPTER XIV

Commission Procedure and Practice

SCOPE NOTE

This chapter includes provisions prescribing the general procedure to be observed by commissions in the performance of their duties and the conduct of their proceedings, and such grants of power as authorize commissions to render these requirements effective. Provisions involving special procedure incident to the exercise of particular powers have been excluded. For procedure in the regulation of competition, see ch. xi, on franchises, and ch. xiii, on intercorporate relations. For procedure in the regulation of capitalization, see ch. xii, on stock and bond issues. For procedure in the valuation of utility property by commissions, see ch. iii, on basis of rate making. For procedure in the regulation of rates, see ch. iv, on establishment and change of rates. For procedure in the regulation of the adequacy and safety of service, see ch. vii, on service, and ch. viii, on safety of operation. For provisions prescribing general rules of enforcement and judicial review, see ch. xv, on enforcement. For general statement of scope and method, see introduction.

ANALYSIS

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A. AUTHORITY OF COMMISSION TO ADOPT RULES AND REGULATIONS FOR ITS GOVERNMENT AND PROCEEDINGS.¹

UNITED STATES Commission may, from time to time, make or amend such general rules or orders as may be requisite for the
3450 order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform as nearly as may be, to those in use in the courts of the United States.
Act to Regulate Commerce, sec. 17.

ALABAMA Commission may adopt and publish rules to govern its proceedings and to regulate the mode and manner of
3451 all investigations and hearings before it, provided all hearings shall be open to the public. *Code 1907, sec. 5643.*

ARIZONA The law-making power may enlarge the powers and extend the duties of commission and may prescribe rules
3452 and regulations to govern proceedings instituted by and before it; but, until such rules and regulations are provided by law, commission may make rules and regulations to govern such proceedings. *Const., art. xv, sec. 6.*

COLORADO Commission may make all needful rules for its
3453 government and proceedings. *Laws 1910, sp. sess., ch. 5, sec. 12.*

INDIANA Commission may adopt and enforce such rules, regulations and modes of procedure as it may deem proper, to
3454 hear and determine complaints and for the conduct of all investigations held by it or its appointees and to regulate the conduct of its inspectors and appointees. *Acts 1907, ch. 241, sec. 3(e).*

IOWA Commission may from time to time make or amend such general rules or orders as may be necessary for the
3455 preservation of order and the regulation of proceedings before it, including forms of notice and the service thereof, which shall conform as nearly as may be to those in use in the courts of the state. *Code 1897, sec. 2142.*

KANSAS Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of
3456 all investigations and hearings held by commission under the

¹ See also pars. 3712-3790.

authority conferred upon it by law; provided, no person desiring to be present at any such investigation or hearing shall be denied admission. *Gen. Stats. 1909, sec. 7172.*

3457 Commission shall have power to adopt reasonable and proper rules and regulations to govern its proceedings including the assessment and taxation of costs on any complaint provided for in section 33 hereof, and to regulate the mode and manner of all investigations, tests, audits, inspections and hearings not specifically provided for herein. *Laws 1911, ch. 238, sec. 9.*

LOUISIANA Commission shall have power to adopt and enforce such reasonable rules and regulations and modes of procedure as it may deem proper for the discharge of its duties and to hear and determine complaints that may be made against the 3458 classification or rates it may establish, and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges and other acts required or authorized by these provisions. *Const., art. 284.*

MICHIGAN Commission shall have power to adopt and publish rules to govern its proceedings and to regulate the mode 3459 and manner of all investigations and hearings of common carriers and other parties before it, and all hearings shall be open to the public. *Pub. Acts 1909, no. 300, sec. 2(1).*

Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings of telephone companies and other companies 3459 before it in the establishment of rates, facilities, charges, service and other acts required of it under this act, which rules shall as near as may be conform to the practice heretofore established under act number 300 of the public acts of 1909. *Pub. Acts 1911, no. 138, sec. 10.*

MINNESOTA Commission may from time to time make or amend general rules or orders requisite for the order and regulation of proceedings before it, including forms of notices and service 3461 thereof, which shall conform as nearly as may be to those in use in the courts, and shall conduct its proceedings in such a manner as will best conduce to proper dispatch of business and to the ends of justice. *Rev. Laws 1905, sec. 1961.*

MONTANA Commission shall have power to adopt rules to govern its proceedings and to regulate the mode and manner of

3463 all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges and other acts required of it under the law. *Rev. Codes 1907, sec. 4365.*

NEVADA Commission shall have power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroads and
3463 other parties before it, and all hearings shall be open to the public. *Stats. 1907, ch. 44, sec. 1(l), as amended by Stats. 1911, ch. 193.*

In addition to the modes of procedure hereinafter prescribed in particular cases and classes of cases, commission shall have power to prescribe rules of procedure, and to do all things necessary and convenient in the exercise of the powers by this act conferred upon it; provided, that nothing in this act shall be construed as vesting judicial powers in commission, or as denying to
3464 any person, firm, association, corporation, municipality, county, town or village the right to test in a court of competent jurisdiction the legality or reasonableness of any final order made by commission in the exercise of its duties or powers. *Stats. 1911, ch. 162, sec. 4.*

Commission shall have power to adopt reasonable and proper rules and regulations relative to all inspections, tests, audits, and investigations; and to adopt and publish reasonable and proper
3465 rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings held for the purpose of determining any question affecting public utilities; provided, that all such hearings shall be public. *Same, sec. 14.*

NEW HAMPSHIRE Commission shall have power to adopt and publish rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings before it, and all
3466 hearings shall be open to the public. In any such investigation or hearing commission shall not be bound by the technical rules of evidence. *Laws 1911, ch. 164, sec. 2(k).*

NEW JERSEY Commission shall have power to make all
3467 needful rules for its government and other proceedings not inconsistent with this act. *Laws 1911, ch. 195, sec. 11.*

NEW MEXICO Commission and the supreme court are hereby
3468 authorized and empowered to make and publish further rules of

order, practice and procedure as commission or supreme court may deem necessary or proper. *Laws 1912, ch. 78, sec. 15.*¹

NORTH CAROLINA Commission shall prescribe rules of practice and procedure in all matters before it and in all examinations
3468 necessary to be made under this chapter. *Pell's Revisal 1908, sec. 1068.*

NORTH DAKOTA Commission may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of
3470 notice and the service thereof, which shall conform as nearly as may be to those in use in courts of this state. *Rev. Codes 1905, sec. 4362.*

OHIO Commission may adopt and publish rules to govern its proceedings, and to regulate the mode and manner of
3471 investigations and hearings of railroads and other parties before it. All hearings shall be open to the public. *Code 1910, sec. 497.*

Commission shall have power to adopt and publish rules to
3472 govern its proceedings and to regulate the mode and manner of all valuations, tests, audits, inspections, investigations and hearings which shall be open to the public. *Laws 1911, no. 325, sec. 7.*

OREGON Commission shall have power to adopt and publish rules or orders to govern its proceedings and to amend the same, and to regulate the mode and manner of all investigations
3473 and hearings of railroads and other parties before it, and all hearings shall be open to the public. *Gen. Laws 1907, ch. 53, sec. 9.*²

PENNSYLVANIA Commission may, from time to time, make or amend such general rules or orders as it may determine for the
3474 orderly regulation of proceedings before it, including forms of notices and the service thereof. *Laws 1907, no. 250, sec. 5.*

SOUTH DAKOTA Identical with par. 3470. *Rev. Pol. Code 3475 1903, sec. 192.*

¹ Commission shall prescribe its own rules of order and procedure except so far as specified in this constitution. *Const., art. xi, sec. 4.*

² Commission shall have power to adopt and amend reasonable and proper rules and regulations relative to all inspections, tests, audits and investigations, and to adopt and publish reasonable and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it, and any person may appear before commission, and be heard, or may appear by attorney. All hearings shall be open to the public. *Gen. Laws 1911, ch. 279, sec. 34.*

TENNESSEE

Commission shall have power to make all needed rules for its government and for its proceedings, and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, and to adopt and enforce such rules and regulations and modes of procedure as it may deem proper for the hearing and the determination of all complaints made by any railroad company or other parties *Acts 1897, ch. 10, sec. 8(1), as amended by Laws 1907, ch. 390, sec. 2.*

TEXAS

Commission shall have power to make all needful rules for the government of its proceedings. *Sayles' Civ. Stats. 1897, art. 4561(5).*

Commission shall have power to adopt rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the establishment of rates, orders, charges and other acts required of it under the law; provided, that no person desiring to be present at any such investigation by commission shall be denied admission. *Same, art. 4563(1).*

VERMONT

The forms, pleadings, procedure and rules of practice before commission shall be prescribed by commission and printed for general use. Commission shall hear all matters and state its rulings when excepted to and its findings of facts, which shall have the force and effect of the reports of special masters in courts of equity, whenever the cause is taken by an appeal to supreme court. *Pub. Stats. 1906, sec. 4598.*

VIRGINIA

Commission shall prescribe its own rules of order and procedure, except so far as the same are specified in this constitution or any amendment thereof. *Const., sec. 155.*

WASHINGTON

Commission shall have, and it is hereby given, power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings; provided, no person desiring to be present at such hearing shall be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of commission. *Laws 1911, ch. 117, sec. 85.*

See also par. 2413.

WISCONSIN

Commission shall have power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroads and

other parties before it, and all hearings shall be open to the public. *Laws 1905, ch. 362, sec. 1797-1(l).*

Commission shall have power to adopt reasonable and proper rules and regulations relative to all inspections, tests, audits and investigations and to adopt and publish reasonable
3443 and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. All hearings shall be open to the public. *Laws 1907, ch. 499, sec. 1797m-36.*

B. AUTHORITY OF COMMISSION TO ADMINISTER OATHS, SUBPŒNA WITNESSES AND ORDER THE PRODUCTION OF BOOKS, RECORDS AND MEMORANDA IN PROCEEDINGS BEFORE COMMISSION.

1. Administration of oaths, issue of subpoenas and production of documents.

UNITED STATES All existing laws relating to the attendance of witnesses and the production of evidence and the compelling of
3484 testimony under the act to regulate commerce and all acts amendatory thereof shall apply to any and all proceedings and hearings under this act. *Act to Regulate Commerce, sec. 9.*

For the purpose of this act commission may require by subpoena, the attendance and testimony of witnesses and the pro-
3485 duction of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation. *Same, sec. 12.*

Such attendance of witnesses and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case
3486 of disobedience to a subpoena commission, or any party to a proceeding before commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. *Same.*

Any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier, or other person, issue an order requiring such common carrier or other person to appear before commission (and produce

books and papers if so ordered) and give evidence touching the
3487 matter in question; and any failure to obey such order of the
court may be punished by such court as a contempt thereof. The
claim that any such testimony or evidence may tend to crimi-
nate the person giving such evidence shall not excuse such wit-
ness from testifying; but such evidence or testimony shall not be
used against such person on the trial of any criminal proceeding.
Same.

3488 Either of the members of commission may administer oaths
and affirmations and sign subpoenas. *Same, sec. 17.*

Any person who shall neglect or refuse to attend and testify
or to answer any lawful inquiry, or to produce books, papers,
tariffs, contracts, agreements, and documents, if in his power to
do so, in obedience to the subpoena or lawful requirement of com-
3489 mission, shall be guilty of an offense and upon conviction thereof
by a court of competent jurisdiction shall be punished by fine of
not less than \$100 nor more than \$5,000 or by imprisonment for
not more than one year or by both such fine and imprisonment.
Immunity of Witnesses Act, 1893.

See also pars. 188, 2616.

ALABAMA

Commission may require by order of subpoena,
to be served on any transportation company in the same manner
that a summons is served in a civil action in the circuit court, the
production within this state, at such time and place as it may
designate, of any books, papers or accounts kept by such trans-
3490 portation company in any office or place without or within the
state or verified copies in lieu thereof, if commission shall so order,
in order that an examination thereof may be made by commis-
sion or under its direction. Any transportation company fail-
ing or refusing to comply with any such order or subpoena shall,
for each day it shall so fail or refuse, forfeit to the state a sum not
less than \$100, nor more than \$1,000, which may be recovered by
the state. *Code 1907, sec. 5663.*

Each commissioner, for the purposes mentioned in this chap-
ter, and in all hearings before it, may administer oaths, certify to
3491 official acts, issue subpoenas, compel the attendance of witnesses
and the production of papers, way bills, books, accounts, docu-
ments and stationery. *Same, sec. 5672.*

See also pars. 190, 889, 2754.

ARIZONA

Commission and each commissioner may issue
writs or summons, subpoenas, warrants of attachment, warrants

of commitment and all necessary process in proceedings for contempt, in the like manner and to the same extent as courts of record. The process issued by commission or any commissioner
3492 shall extend to all parts of the state and may be served by any person authorized to serve process of courts of record, or by any person designated for that purpose by commission or a commissioner. The person executing any such processes shall receive such compensation as may be allowed by law. *Sess. Laws 1912, ch. 90, sec. 54.*

Commission and each commissioner may administer oaths, certify to all official acts, and issue subpoenas for the attendance
3493 of witnesses and the production of papers, way bills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. *Same, sec. 55(a).*

The superior court in and for the county in which any inquiry, investigation, hearing or proceeding may be held by commission or any commissioner may compel the attendance of witnesses, the giving of testimony and the production of papers, including way bills, books, accounts and documents, as required by any subpoena issued by commission or any commissioner. Commission or the commissioner before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before commission or commissioner, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded to him
3494 in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before commission. The court, upon the petition of commission or such commissioner shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before commission. A copy of said order shall be served upon said wit-

ness. If it shall appear to the court that said subpoena was regularly issued by commission or a commissioner, the court shall thereupon enter an order that said witness appear before commission or said commissioner at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this subsection is cumulative, and shall not be construed to impair or interfere with the power of commission or a commissioner to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record. *Same, sec. 55(b).*

Commission may require, by order served on any public service corporation in the manner provided herein for the service of orders, the production within this state at any such time and place
3495 as it may designate, of any books, accounts, papers or records kept by said public service corporation in any office or place without this state, or at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction. *Same, sec. 59.*

See also pars. 368, 1412, 3298.

ARKANSAS

Commission, in making any examination or investigation provided for in this act, may issue subpoenas for the attendance of witnesses. In case any witness shall fail or refuse to obey such subpoena commission may issue an attachment for said witness, directed to any sheriff or any constable in the state, and compel him to attend before commission, and give his testimony upon such matters as shall be lawfully required of him. If a witness being duly summoned shall fail or refuse to attend or to answer any question propounded to him and which he would
3496 be required to answer if in court, commission may fine and imprison such witness for contempt, in the same manner that a judge of the circuit court might do under similar circumstances. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but the person so testifying shall not be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning in any way such case or proceeding; provided, that no person shall be exempt from perjury in so testifying. *Kirby's Digest 1904, sec. 6825.*

The sheriff or constable executing any process under the provisions of this bill shall receive such compensation as may be al-
3497

lowed by commission, not to exceed fees as now prescribed by law. *Same.*

See also par. 175.

CALIFORNIA Substantially identical with pars. 3492, 3493, 3498 3494, 3495. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 54, 55(a), 55(b), 59.*

See also pars. 175, 415, 3298, 4517.

COLORADO Members of commission may each administer oaths, and for the purpose of this act commission may require by subpoena the attendance and testimony of witnesses and the pro- 3499 duction of all books, papers, tariffs, contracts, agreements and documents relating to any matter under investigation. *Laws 1910, sp. sess., ch. 5, sec. 12.*

3500 Also a provision identical with par. 3487.¹ *Same.*

CONNECTICUT Commission, or any member thereof, in the performance of its duties or in connection with any hearing, may summon and examine, under oath, such witnesses, and may direct the production of, and examine or cause to be produced and examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to the affairs of any public service company as it may find proper, and shall have the 3501 same powers in reference thereto as are now vested in magistrates taking depositions. If any witness objects to testifying or to producing any book, or paper on the ground that such testimony, book, or paper may tend to incriminate him, and commission, or any member thereof, direct such witness to testify or to produce such book or paper, and he complies, or he be compelled so to do by order of court, he shall not be prosecuted for any matter concerning which he has so testified. *Pub. Acts. 1911, ch. 128, sec. 9.*

FLORIDA Commissioners, in making any examination for the purpose of obtaining information pursuant to this act, shall have power to issue summons, subpoena, subpoena duces tecum or other writs for the attendance of witnesses by such rules as they may prescribe. In case any person shall refuse or wilfully 3502 fail to obey such subpoena, subpoena duces tecum or other writ issued by commissioners, commissioners may issue an attachment for such witness and compel him to attend before commissioners and give his testimony upon such matters as shall be lawfully required by such commissioners; to bring and produce such

¹ "Any of the circuit courts of the United States" reads "any of the district courts of this state," in Colorado.

books, or papers or documents required of such person and commissioners may punish for contempt as in cases of refusal to obey the orders and process of the circuit courts of the state. *Gen. Stats. 1906, sec. 2916.*

In making any investigations or examinations pursuant to this or any other section of this act each commissioner may administer oaths or affirmations, and in such examinations or investigations no person called upon to testify shall be excused from answering on the ground or claim that his testimony would tend to incriminate himself; but such testimony shall not be used
3503 against him in any criminal proceeding. The secretary of commission may serve any subpoena, notice or other process or other paper issued by commission and required by it to be personally served, and sheriffs in the different counties in this state shall make such service and execute all process or orders when required by commission, said sheriffs to be paid the same fees as are allowed them by law for similar services. *Same, sec. 2917.*

GEORGIA

Commission, in making any examination for the purpose of obtaining information pursuant to this article, may issue subpoenas for the attendance of witnesses by such rules as it may prescribe. In case any person shall wilfully fail or refuse to obey such subpoena, the judge of the superior court
3504 of any county, upon application of commission, shall issue an attachment for such witness, and compel him to attend before commission and give his testimony upon such matters as shall be lawfully required by such commission and court may punish for contempt, as in other cases of refusal to obey the process and order of such court. *Code 1911, sec. 2653.*

See also pars. 2693, 3298.

ILLINOIS

In making any examination as contemplated in this act, or for the purpose of obtaining information, pursuant to this act, commissioners may issue subpoenas for the attendance of witnesses, and may administer oaths. In case any person shall wilfully fail or refuse to obey such subpoena, it shall be the
3505 duty of the circuit court of any county, upon application of commissioners, to issue an attachment for said witness and compel such witness to attend before commissioners, give his testimony upon such matters as shall be lawfully required by such commission; and the court may punish for contempt, as in other cases of refusal to obey the process and order of such court. *Revisal 1909, ch. 114, sec. 180.*

Any person who shall wilfully neglect or refuse to obey the process of subpoena issued by commission and appear and testify as therein required, shall be deemed guilty of a misdemeanor, and shall be liable to an indictment in any court of competent jurisdiction, and on conviction thereof shall be punished for each offense by a fine of not less than \$25 nor more than \$500, or by imprisonment of not more than 30 days, or both, in the discretion of the court before which such conviction shall be had. *Same, sec. 181.*

See also par. 421.

INDIANA

The chairman and each of the members of commission and the secretary and clerk thereof, for the purposes mentioned in this act, may administer all oaths proper or necessary in the course of any hearing or investigation provided for by this act, or in the dispatch of any business concerning the commission or its duties. Subpoenas commanding the attendance of witnesses and the production of papers, bills of lading or other evidence of shipment, way bills, books, accounts and other documents deemed necessary by commission in any proceeding pending before it may be issued by commission, signed by its secretary and served by reading or by copy, and such subpoenas shall be served and the attendance of all such witnesses enforced as provided for in this act. *Acts 1907, ch.241, sec. 4(a).*

Commission, in all investigations being held by it and in all proceedings pending before it, may require any carrier, other party, or corporation, to produce before commission, to be used as evidence in such investigation, or proceedings any book, record, contract, letter, paper or other document in the possession, or under the control, or subject to the order of any such carrier, other party, or corporation, which is necessary, or proper to be considered in evidence in any such proceedings, and in case any such carrier, or other party, or corporation, shall fail, or refuse, to produce the same, such carrier, or other party or corporation, shall forfeit and pay to the state a sum not less than \$100 nor more than \$500, to be collected as provided in this act. *Same, sec. 10(aa), as amended by Acts 1911, ch. 225, sec. 2.*

For the purposes of this act commission may require by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, or in any proceeding pending before it. Such attendance of witnesses and the production of such documentary evidence may be required

at any designated place of hearing in this state. In case of disobedience to a subpoena, commission, or any party to a proceeding before commission may invoke the aid of any circuit court of this state in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under this provision. Any of the circuit courts of this state, within the jurisdiction of which any such inquiry or hearing is carried on, may, in
3809 case of contumacy or refusal to obey a subpoena issued to any such carrier subject to the provisions of this act, or other person, issue an order requiring such carrier, or other person, to appear before commission, and produce books, and papers, if so ordered, and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony, or evidence, may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence, or testimony, shall not be used against such person on the trial of any criminal proceeding, nor shall any such witness so compelled to testify against himself be thereafter prosecuted for any crime concerning which he has been compelled to give testimony. *Same, sec. 11, as amended by Acts 1911, ch. 225, sec. 3.*

In case any witness who is sought to be examined by commission at any hearing or investigation conducted by or proceeding pending before it, shall refuse to answer any question addressed to such witness by commission pertinent to the matter then being heard or investigated, or shall refuse to produce a book, paper or other document or documents in his possession or power and pertinent to such matter, and required by commission to be produced before it, or shall decline to testify before commission,
3810 commission may report such fact to any circuit or superior court of the county wherein such hearing, investigation or proceeding is being conducted, or to the judge thereof in vacation, and such court or judge shall thereupon order such witness to answer such question or questions and produce such book, paper, or other document or documents before commission, or give testimony in such hearing, investigation or proceeding, and on failure or refusal to obey such order, such witness shall be dealt with by such circuit or superior court or judge thereof in vacation, as for contempt. *Same.*

IOWA Commission may require the attendance and testimony of witnesses, the production of all books, papers, tariffs, schedules, contracts, agreements and documents relating to any

matter under investigation; and may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of books, papers and documents; and any court within the jurisdiction of which such inquiry is carried on shall, in case of refusal to obey a subpoena or other proper process issued to any common carrier or person subject to the provisions hereof, issue an order requiring such carrier or person to appear before commission and produce books and papers, if so ordered, and testify touching, or in relation to, the matter in question; and a failure to obey such orders of the court shall be punished as for a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving it shall not excuse him from testifying, but no person shall be prosecuted or subjected to any penalty or forfeiture for and on account of any matter or thing concerning which he may testify or produce evidence, documentary or otherwise; provided that no person so testifying shall be excepted from prosecution, and punishment for perjury committed in so testifying. *Code 1897, sec. 2133.*

See also par. 424.

KANSAS

In case any witness shall fail or refuse to obey a subpoena, commission or any member thereof may apply to any district court or judge thereof for an order and an attachment for said witness, directed to any sheriff of the state, and which said court or judge may issue, and compel him to attend before commission, or any member thereof, and give his testimony and answer any question upon such matters as shall be lawfully required of him. If a witness, after being duly summoned and ordered by any such court or judge, shall fail or refuse to attend, or to answer any question propounded to him, and which he would be required to answer if in a court, such court or judge shall have the power to fine and imprison such witness for contempt. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial or (of) any criminal proceeding, nor shall he be liable to criminal prosecution for or on account of any transaction, matter or thing concerning which he may so testify. The sheriff executing any process under the provisions of this section, or under any other provisions of this act, shall receive such compensation as may be allowed by com-

mission, not to exceed fees now prescribed by law for similar service in civil cases. *Gen. Stats. 1909, sec. 7175.*

See also pars. 425, 2811, 3176, 3725.

KENTUCKY

Each of the commissioners is authorized to administer oaths. *Carroll's Stats. 1909, sec. 821.*

See also par. 426.

LOUISIANA

Commission may summon and compel the attendance of witnesses, swear witnesses, and compel the production of books and papers, take testimony under commission and punish for contempt as fully as is provided by law for the district courts. *Const., art. 284.*

MAINE

See pars. 1111, 2634.

MARYLAND

If a person subpoenaed to attend before commission or commissioner fail to obey the command of such subpoena, without reasonable cause, or if a person in attendance before commission or a commissioner shall, without a reasonable cause, refuse to be sworn or to be examined, or answer a question or to produce a book or paper when ordered to do so by commission or a commissioner, or to subscribe or swear to his deposition after it has been correctly produced in writing, he shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent criminal jurisdiction. *Laws 1910, ch. 180, sec. 9.*

If a person in attendance before commission or a commissioner refuse, without reasonable cause, to be examined, or to answer a legal and pertinent question, or to produce a book or paper when ordered to do so by commission or commissioner, commission or commissioner may apply to any judge of the supreme bench of Baltimore City or of the circuit court for any county, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days, directing such person to show cause before the judge who made the order, or any other judge aforesaid, why he should not be committed to jail; upon the return of such order, the judge before whom the matter shall come on for a hearing shall examine under oath such person, and such person shall be given an opportunity to be heard; and if the judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to bring or produce, he may forthwith commit the offender to jail, there to remain until he submits to do the

act which he was so required to do, or is discharged according to law. *Same.*

Commission and such commissioner may administer oaths in all parts of the state to witnesses summoned to testify in any inquiry, investigation, hearing or proceeding, and may also administer oaths in all parts of the state whenever the exercise of such power is incidentally necessary or proper to enable commission or a commissioner to perform a duty or to exercise a power committed to it by this act. *Same, secs. 13, 20.*

Commission may, whether as a commission or through its members, subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter within its jurisdiction under this article. *Same, sec. 31¾.*

See also pars. 175, 377, 427, 428, 3298, 3734.

MASSACHUSETTS In all investigations made by (highway) commission and in all proceedings before it, any member thereof may summon witnesses in behalf of the commonwealth, and may administer oaths and take testimony. *Acts 1906, ch. 433, sec. 13.*

In all cases investigated and inquiries made by (railroad) commission and in all proceedings before it, any member thereof may summon witnesses in behalf of the commonwealth and may administer oaths and take testimony. *Acts 1906, ch. 463, pt. i, sec. 19.*

See also par. 2641.

MICHIGAN Each of the commissioners may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents and testimony. In case of disobedience on the part of any person or persons, or wilful failure to comply with any order of commission or any commissioner or any subpoena, or upon the refusal of any witness to testify regarding any matter upon which he may be lawfully interrogated, or to produce any books or papers in his custody or control which he shall have been required by any commissioner to produce, it shall be the duty of the circuit court or any court, or a judge thereof, upon application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein, and in addition said commissioner shall have the powers vested in justices of the peace and notaries public to com-

pel witnesses to testify and to produce books and papers. *Pub. Acts 1909, no. 300, sec. 23(a).*

Commission may require by order or subpoena, to be served upon any common carrier in the same manner that a subpoena is served in a law action in the circuit court, the production within this state, at such time and place as it may designate, any books, papers or accounts relating to any matter which is the subject of complaint or investigation, kept by such railroad in any office or place without the state, or verified copies in lieu thereof, if commission shall so order, in order that an examination thereof shall be made by commission or under its direction, and such subpoena may issue to any sheriff in any county of the state. Any common carrier failing or refusing to comply with such order or subpoena within a reasonable time shall for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$1,000 to be recovered in an action at law brought in the name of commission. *Same sec. 28(d).*

Commission may administer oaths, certify to all official acts and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony. *Pub. Acts 1911, no. 138, sec. 11.*

See also pars. 803, 3299.

MINNESOTA Commission in any hearing or investigation may require the attendance of witnesses and the production of any books, papers and records. Disobedience of any subpoena in such proceeding, or contumacy of a witness, may upon application of commission, be punished by any district court in the same manner as if the proceeding were pending in such court. *Rev. Laws 1905, sec. 1968.*

Commission may administer oaths, interrogate witnesses, take testimony and require the production of books and papers. *Laws 1907, ch. 253, sec. 2.*

See also par. 949.

MISSISSIPPI The several members of commission, and the secretary may in discharge of their duties administer oaths and take affidavits, and commission and each member thereof may examine witnesses under oath in all matters coming before them, and if any person shall testify falsely, or make any false affidavit or oath before commission, or before any commissioner, or before any officer, to any matter coming before commission, he shall be

guilty of perjury, and upon conviction, shall be punished according to law. *Code 1906, sec. 4831.*

In any matter or inquiry pending before commission or any member thereof, subpoenas for witnesses, and subpoenas duces tecum, may be issued by the secretary, under seal or by any member without the seal, and shall be executed and returned by any sheriff, constable, or marshal, under like penalties of law for failure to execute and return the process of the circuit court; and if any person duly summoned to appear and testify before commission, or before any one or more of the commissioners, shall fail or refuse to appear and testify or to bring and produce, as commanded any book, paper, or document, without a lawful excuse, or shall refuse to answer any proper question propounded to him by commission or any of the commissioners; or if any person shall obstruct commission or one or more of the commissioners in the discharge of duty, or shall conduct himself in a rude, disrespectful, or disorderly manner before commission deliberating in the discharge of duty, such witness or person shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$50 nor more than \$1,000. *Same, sec. 4837.*

See also par. 382.

MISSOURI

Upon complaint being made and filed against any railroad company, commissioners shall have power to administer oaths or affirmations, to send for persons and papers, under such regulations as they may prescribe, and shall at any and all times have access to any and all books and papers in any railroad office kept for and used in said railroad office by any railroad company in this state, and if the charges are sustained, the cost shall be paid by the railroad company but if not sustained, then the cost shall be paid by the party making the complaint. *Rev. Stats. 1909, sec. 3254.*

Commissioners, in making any examination, may issue subpoenas for the purpose of obtaining information pursuant to this article for the attendance of witnesses, by such rules as they may prescribe; and in case any person shall wilfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court or any judge thereof in any county, upon the application of the commissioners, to issue an attachment for such witness and compel such witness to attend before commissioners, and give his testimony upon such matters as shall be lawfully required by such commissioners; and said court shall have power to punish for contempt, as in

other cases of refusal to obey the process and order of such court.
Same, sec. 3255.

Any person who shall wilfully neglect or refuse to obey the process of subpoena issued by commissioners, to appear and testify as therein required, shall be deemed guilty of a misdemeanor, and shall be liable to arraignment and trial in any
3530 court having competent jurisdiction, and on conviction thereof shall be punished for such offense by a fine of not less than \$20 nor more than \$500 or by imprisonment not exceeding 30 days, or both, at the discretion of the court before which such conviction shall be had. *Same, sec. 3256.*

See also pars. 383, 811, 962, 964, 965.

MONTANA Commissioners may administer oaths and
3531 affirmations. *Rev. Codes 1907, sec. 4365.*

Process issued by commission shall be under seal and extend to all parts of the state. Commission may issue process in like manner as courts of record. Such process may be served by any person authorized to serve of courts of record, or by any person appointed by commission for such purpose. In the event the process issued by commission is a subpoena for the attendance of a witness, and he shall have failed, neglected or refused to obey the same, commission may file a petition with any district court in the state, setting up the facts and the necessity of having such wit-
3532 ness appear in such trial, and the court shall thereupon summarily direct that a subpoena be issued out of the court requiring the attendance of any person or persons as a witness before the court; and commission may thereupon examine such witness before said court, under oath, respecting any inquiry or investigation being made by commission. The court shall likewise when any petition is filed stating the necessity therefor order the production by any person or corporation, for examination in said court, any books, papers, records or files necessary or pertinent to any inquiry or investigation then being made by commission. *Same, sec. 4372.*

Commission in making any examination or investigation pro-
3533 vided for in this act, may issue subpoenas for the attendance of witnesses, by such rules as they may prescribe. *Same, sec. 4381*

See also par. 297.

NEBRASKA In case any witness shall fail or refuse to obey any subpoena issued by commission, or to produce before commission such books, papers, documents or records as shall have been enumerated and required in any subpoena, or shall fail or

refuse when before commission to give such testimony lawfully required by them, or fail or refuse to answer such questions as may be propounded by them and which he would be required to answer if in court, he shall be deemed guilty of a misdemeanor **3834** and upon conviction thereof for each offense shall be fined in any sum not exceeding \$5,000. The claim that any such testimony may tend to incriminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceedings. The sheriff or constable executing any process under the provisions of this act shall receive such compensation as is provided by law for performing similar services. *Cobbey's Annot. Stats. 1909, sec. 10650(k).*

See also pars. 432, 828, 3300.

NEVADA

Each commissioner may administer oaths, certify to official acts, issue subpoenas, compel attendance of witnesses and the production of papers, way bills, books, accounts, documents, and testimony. In case of disobedience on part of any person or persons to comply with any order of commission or any commissioner or any subpoena, or on the refusal of any **3835** witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county, or a judge thereof, on application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of requirements of a subpoena issued from such court, or a refusal to testify therein. *Stats. 1907, ch. 44, sec. 13, as amended by Stats. 1909, ch. 121, sec. 6.*

Commission may require by order or subpoena, and to be served on any railroad, in the same manner that summons is served in a civil action in a district court, the production within this state, at such time and place as it may designate, of any books, papers, or accounts relating to any matter which is the subject of complaint or investigation kept by said railroad in any office or place without the state, or verified copies in lieu thereof, if commission shall so **3836** order, in order that an examination thereof may be made by commission or under its direction, and such subpoena may issue to any sheriff in any county of the state. Any railroad failing or refusing to comply with any such order or subpoena within a reasonable time shall, for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$1,000 to be recovered in a civil action brought in the name of commission. *Same, sec. 18(c).*

Commission may require, by order to be served on any public utility in the same manner as a summons in a civil action, the production at such time and place as commission may designate of any books, accounts, papers or records kept by such public utility in any office or place without the state or verified copies
2537 in lieu thereof, if commission shall so direct, in order that an examination thereof may be made by commission or under its direction, or for use as testimony. If any public utility shall refuse or fail to comply with such order, said utility shall be subject to the liability named in section eight. *Stats. 1911, ch. 162, sec. 15.*

NEW HAMPSHIRE Commission may subpoena witnesses and administer oaths to witnesses in any proceeding or examination instituted before it or conducted by it, and compel by subpoena duces tecum the production of any accounts, books, contracts, records, documents, memoranda and papers of any kind whatever. In lieu of requiring production of originals by subpoena duces tecum it may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it. Commission may also require any railroad corporation or public utility to make specific answers to questions upon which commission may need information. Witnesses who refuse or neglect to appear, or who refuse to testify, may be compelled to do so, and for that purpose commission may apply
2538 to any justice of the superior court, upon proof by affidavit of the facts, for an order returnable in not more than five days, directing any person so refusing to show cause before the justice making the order or any other justice of the superior court why he should not be committed as for contempt; upon the return of such order, the justice before whom the matter shall come for hearing shall examine under oath such person whose testimony may be relevant, and such person shall be given an opportunity to be heard; and if the justice shall determine that such person has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith commit the offender as for contempt, so to remain until he submits to do the act which he was so required to do or is discharged according to law. *Laws 1911, ch. 164, sec. 2(l).*

NEW JERSEY Commission may compel the attendance of witnesses and the production of tariffs, contracts, papers, books,

accounts and all other documents, and any member of commission may administer oaths to all witnesses who may be called before commission or any member thereof. Subpoenas issued by commission shall be signed by one of the members thereof and by the secretary, and may be served by any person of full age. *Laws 1911, ch. 195, sec. 27.*

If a person subpoenaed to attend before commission, or a member thereof, fails to obey the command of such subpoena without reasonable cause, or if a person in attendance before commission or a member thereof, refuses, without lawful cause, to be examined or to answer a legal or pertinent question, or to produce a book or paper, when ordered so to do, by commission or any member thereof commission or such member thereof may apply to the supreme court of any justice thereof, who shall have the power of the court for that purpose, upon proof, by affidavit of the facts, for an order returnable in not less than two nor more than ten days, directing such person to show cause before the court, or the justice thereof who made the order, or to any other justice, why he should not comply with the subpoena or order of commission; upon the return of such order the court or justice before whom the matter shall come on for hearing, shall examine under oath such person whose testimony may be relevant, and such person shall be given an opportunity to be heard, and if the court or justice shall determine that such person refused without legal excuse to obey the command of such subpoena, or to be examined, or to answer a legal or pertinent question, or to produce a book or a paper which he was ordered to produce, said court or justice may order said person to comply forthwith with the subpoena or order of commission, and any failure to obey such order of the court or justice may be punished by said court or justice as a contempt of said supreme court. *Same.*

NEW MEXICO Each commissioner or the clerk may administer oaths. *Laws 1912, ch. 78, sec. 4.*

Commission or any examiner authorized by it to take testimony, upon application of either party, or of its own or such examiner's motion may issue process under the seal of commission, compel the attendance of witnesses to testify and the production of books, papers, tariffs, files and documents relating to any matter under investigation. Subpoenas for the production of any books, tariffs, files and documents shall specify the particular books, papers, tariffs, files or documents relating to the matter in controversy which the witness is required to produce. In case

of disobedience to a subpoena commission or any party to a proceeding before it may invoke the aid of any court in the state in
2842 compelling the attendance and testimony of such witness, and the production of such books, papers, tariffs, files and documents any such court may, in case of contumacy or refusal to obey the subpoena issued by commission or such examiner, issue an order requiring the appearance and attendance of such witness and the production of such books, papers, tariffs, files and documents, and any failure or refusal to obey such order may be punished by such court as a contempt thereof. The claim that the giving of any such testimony or evidence might tend to incriminate the witness shall not excuse such evidence, but such testimony or evidence shall not be used in any criminal proceeding against him except for perjury. *Same, sec. 6.*¹

Commission or any commissioner or person authorized by commission in writing, under its seal to make such examination,
2843 may at all times inspect the books, papers and records of all such companies and common carriers doing business in this state relating to any matter pending before, or being investigated by commission. *Same, sec. 9.*

Any officer, agent or employe of any such company or corporation, or any person in charge of such books, papers and records, who shall refuse to permit such examination, or who shall conceal, destroy or mutilate, or attempt to conceal, destroy or
2844 mutilate any such books, papers or records, or remove the same beyond the limits of the state for the purpose of preventing such examination shall be deemed guilty of a misdemeanor and upon conviction thereof may be fined not to exceed \$500 or imprisoned in the county jail not more than six months. *Same.*

See also par. 2882.

NEW YORK All subpoenas shall be signed and issued by a
2845 commissioner or by the secretary of a commission and may be served by any person of full age. *Laws 1910, ch. 480, sec. 19(1).*

2846 Also a provision substantially identical with par. 3515. *Same, sec. 19(2).*

If a person in attendance before a commission or a commissioner refuses without reasonable cause to be examined or to answer a legal and pertinent question or produce a book or paper, when ordered so to do by a commission or a commissioner, commission may apply to any justice of the supreme court upon

¹ Commission shall have power to subpoena witnesses and enforce their attendance before the commission, through any district court or the supreme court of the state, and through such court to punish for contempt. *Const., art. xi, sec. 7.*

proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail; 3547 upon the return of such order the justice before whom the matter shall come on for hearing shall examine under oath such person whose testimony may be relevant, and such person shall be given an opportunity to be heard; and if the justice shall determine that such person has refused without reasonable cause or legal excuse to be examined, or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law. *Same.*

3548 Also provisions substantially identical with par. 3517. *Same, secs. 45(1), 94(1).*

Each commission may within its jurisdiction compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena duces tecum 3549 mission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof, to be filed with it. Commission may require of all such corporations, persons or municipalities, specific answers to questions upon which commission may need information. *Same, sec. 66(10).*

3550 Also a provision substantially identical with par. 3518. *Same, sec. 66(11).*

See also pars. 175, 434, 435, 3300, 3761.

NORTH CAROLINA Commissioners may examine all officers, agents and employes of such companies, individuals, firms or corporations, and all other persons under oath or otherwise, and compel 3551 the production of papers and the attendance of witnesses to obtain the information necessary for carrying into effect and otherwise enforcing the provisions of this chapter. *Pell's Revisal 1908, sec. 1064.*

Commission may compel the attendance of witnesses, require 3552 the examination of persons and parties, and compel the production of books and papers, and punish for contempt, as by law conferred upon the superior courts. *Same, sec. 1067.*

See also par. 3764.

NORTH DAKOTA Commissioners may require the attendance and testimony of witnesses and the production of books, papers tariffs, schedules, contracts, agreements and documents relating to any matter under investigation, and to that end may invoke
3553 the aid of any court of competent jurisdiction in this state in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. *Rev. Codes 1905, sec. 4353.*

Any court of this state within the jurisdiction of which such inquiry is carried on, shall in case of contumacy, or refusal to obey a subpoena, or other process issued to any railroad, railroad corporation or common carrier or person subject to the provisions of this article, or other persons, issue an order requiring such railroad, railroad corporation, common carrier or
3554 and papers if so ordered), and give evidence touching or in relation to the matter in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person or witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding. *Same, sec. 4354.*

3555 Every commissioner may administer oaths and affirmations in any proceeding pending before commission. *Same, sec. 4362.*

OHIO Each of the commissioners may administer
3556 oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, documents and testimony. *Code 1910, sec. 530.*

If a person disobeys an order of commission or a commissioner, or a subpoena, or if a witness refuses to testify to any matter regarding which he may be lawfully interrogated, on application of a commissioner, the court of common pleas of a county or a judge thereof shall compel obedience by attachment
3557 proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. Commission also shall have the powers vested in justices of the peace or notaries public to compel witnesses to testify and to produce books and papers. *Same, sec. 531.*

By order or subpoena, served on a railroad as a summons is

served in a civil action in the court of common pleas, commission may require at such time and place within this state as it designates the production of books, papers or accounts relating to any
2888 matter which is the subject of complaint or investigation, kept by such railroad in any office or place outside of this state, or verified copies thereof, in order that an examination of such books, papers or accounts may be made by commission or under its direction. Such subpoena may issue to a sheriff of any county of the state. *Same, sec. 559.*

A railroad failing or refusing to comply within a reasonable time with such order or subpoena from commission shall forfeit
2889 and pay into the state treasury for each day it so fails or refuses, not less than \$100 nor more than \$1,000, to be recovered in a civil action in the name of commission. *Same, sec. 560.*

Whoever being an officer, agent or employe of a railroad company refuses to answer a question propounded to him by a member of commission in the course of an examination authorized
2890 by this chapter shall be fined not less than \$50 nor more than \$500. The property of the railroad company of which he is an officer, agent or employe shall be liable to be taken in execution to satisfy the fines and costs in such cases. *Same, sec. 609.*

See also pars. 439, 440, 3300.

OKLAHOMA

In all matters pertaining to the public visitation, regulation, or control of corporations, and within the jurisdiction of commission, it shall have the powers and authority of a court of record, to administer oaths, to compel the attendance of witnesses, and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of commission while in session, and to enforce compliance with any of its lawful orders or requirements by ad-
2861 judging and by enforcing its own appropriate process against the delinquent or offending party or company (after it shall have been duly cited, proceeded against by due process of law before commission sitting as a court, and afforded opportunity to introduce evidence and to be heard, as well as against the validity, justness or reasonableness of the order or requirement alleged to have been violated, as against the liability of the company for the alleged violation), such fines or other penalties as may be prescribed or authorized by this constitution or by law. *Const., art. ix, sec. 19.*

See also par. 844.

OREGON

Each of the commissioners may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, tariffs, way bills, contracts, books, accounts, documents and testimony. In case of disobedience on the part of any person or persons to comply with the order of commission or of any commissioner or any subpoena, or in the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the circuit court of any county, or the judge thereof, on application of a commissioner, to compel obedience
3562 by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Any person who shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce books, papers, tariffs, way bills, contracts, books, accounts and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of commission, shall be guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. *Gen. Laws 1907, ch. 53, sec. 29.*

Commission may require, by order or subpoena, to be served on any railroad (public utility) in the same manner that a summons is served in a civil action in the circuit court, the production within this state, at such time and place as it may designate, of any books, papers, or accounts kept by said railroad (public utility) in any office or place without the state, or verified
3563 copies in lieu thereof, if the commission shall so order, in order that an examination thereof may be made by commission, or under its direction; any railroad (public utility) failing or refusing to comply with any such order or subpoena shall for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$1,000.¹ *Gen. Laws 1907, ch. 53, sec. 42. Gen. Laws 1911, ch. 279, sec. 37.*

Each of the commissioners, and every examiner or agent may administer oaths, certify to official acts, issue notices in the name of commission, issue subpoenas under his hand, compel
3564 the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony, and take and receive testimony, conduct hearings and investigations, whether

¹ The penalty in the public utility act reads "a sum of not less than \$50 nor more than \$500."

upon complaint or upon commission's own motion. *Gen. Laws 1911, ch. 279, sec. 47.*

In case of disobedience on the part of any person or persons to comply with any order of commission or any commissioner, examiner or agent or any subpoena, or, on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before commission, any commissioner, examiner or agent authorized as provided in section 39, it shall be the duty of the circuit court of any county or the judge thereof, upon application of commission, or any commissioner to compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, way bills, contracts, accounts, and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of commission, shall be guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. *Same.*

See also par. 498.

PENNSYLVANIA Commission may administer oaths in all matters in relation to its duties so far as necessary to enable it to discharge such duties. *Laws 1907, no. 250, sec. 7.*

In all proceedings before commission, under a complaint duly filed, commission may require, by subpoena, the attendance and the testimony of the witnesses, and the production of all books, papers, tariffs, contracts, agreements and documents relating to any matter embraced within said complaint. *Same, sec. 10.*

In case of disobedience to a subpoena, commission, or any party to a proceeding before commission, may invoke the aid of a court of common pleas, within whose jurisdiction the complaint is carried on, in requiring the attendance and testimony of witnesses, and the production of books, papers and documents, under the provisions of this section. *Same.*

See also pars. 175, 3772.

RHODE ISLAND Commission and each of the commissioners may administer oaths, summon and examine witnesses and order

the production and examination of books, accounts, papers, records and documents in any proceeding within the jurisdiction of commission. All subpoenas, and orders for the production of books, accounts, papers, records and documents shall be signed and issued by a commissioner and served as subpoenas in civil cases in the superior court are now served, and witnesses so subpoenaed shall be entitled to the same fees for attendance and travel as now provided for witnesses in civil cases in the superior court. If the person subpoenaed to attend before commission or before a commissioner fails to obey the command of such subpoena without reasonable cause, or if a person in attendance before commission or a commissioner shall, without reasonable cause, refuse to be sworn, or to be examined, or to answer a legal and pertinent question, or if any person shall refuse to produce the books, accounts, papers, records and documents material to the issue, set forth in an order duly served on him, commission or commissioner may apply to any justice of the superior court for any county, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days, directing such person to show cause before the justice who made the order or any other justice aforesaid, why he should not be adjudged in contempt. Upon the return of such order the justice before whom the matter is brought on for a hearing shall examine under oath such person, and such person shall be given an opportunity to be heard, and if the justice shall determine that such person has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce books, accounts, papers, records and documents, material to the issue, which he was ordered to bring or produce he may forthwith commit the offender to jail, there to remain until he submits to do the act which he was so required to do, or is discharged according to law. *Acts 1912, ch. 795, sec. 15.*

See also pars. 175, 1027.

SOUTH CAROLINA Commissioners in making any examination for the purpose of obtaining information may issue subpoenas for the attendance of witnesses by such rules as they may prescribe. In case any person shall wilfully fail or refuse to obey such subpoena, it shall be the duty of any circuit judge of the court of common pleas and general sessions of any county, upon application of commissioners, to issue an attachment for such witness and compel him to attend before commissioners and give his

testimony upon such matters as shall be lawfully required by commissioners; and said circuit judge shall have power to punish for contempt as in other cases of refusal to obey the process or order of the court. *Gen. Stats. 1902, sec. 2077.*

See also par. 848.

SOUTH DAKOTA Commission and each of its members may issue subpoenas and require the attendance and testimony of witnesses and the production of all books, papers, tariffs, schedules, contracts, agreements and documents relating to any matter under investigation, and to that end may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. Such attendance of witnesses and the production of such documents, books, and papers may be required from any place in the state at any designated place
3871 of hearing. And any court of this state within the jurisdiction of which such inquiry is carried on shall, in case of contumacy or refusal to obey a subpoena or either process issued by commission or any member thereof to any common carrier or person subject to the provisions of this article, or other person, issue an order requiring such common carrier or other person to appear before commission and produce all books, and papers, if so ordered, and give evidence touching or in relation to the matter in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof. *Sess. Laws 1911, ch. 207, sec. 15.*

Commission or any member thereof may subpoena witnesses, administer oaths, take testimony and require the production and
3872 examination of all books, papers, contracts and agreements by any telephone company or other person relating in any manner to the business or property of any telephone company. *Sess. Laws 1911, ch. 218, sec. 7.*

See also pars. 230, 401, 447.

TENNESSEE Commission may examine under oath, any person, or the directors, officers, agents and employes of any railroad corporation concerning the management of its affairs and obtain information pursuant to this law; and may issue subpoenas for the attendance of witnesses, compel the production of books and papers, and administer oaths, and any person who shall neglect
3873 or refuse to obey the process of subpoenas issued by commissioners, or who, being in attendance, shall refuse to testify, shall

be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense by a fine of not less than \$50 nor more than \$100 or by imprisonment not less than 10 days nor more than 50 days, or both, in the discretion of the jury trying the case. Each refusal to obey the subpoenas or to testify shall constitute a separate offense. *Acts 1897, ch. 10, sec. 9.*

Commission in making any examination or investigation
3874 provided for in this act, may issue subpoenas for the attendance of witnesses by such rules as they may prescribe. *Same, sec. 10.*

In case any witness shall fail or refuse to obey such subpoena, commission may issue an attachment for said witness, directed to any sheriff or constable of the state, and compel him to attend before commission and give his testimony upon such matters as shall be lawfully required by them. If a witness,
3875 after being duly summoned, shall fail or refuse to attend, or to answer any question propounded to him, and which he would be required to answer if in court, commission shall have power to fine and imprison such witness for contempt in the same manner that the judge of any court of competent jurisdiction might do under similar circumstances. *Same.*

The sheriff or constable executing any process issued under the provisions of this section, or under any other provisions of
3876 this bill, shall receive such compensation as may be allowed by commission, not to exceed fees as now prescribed by law for similar services. *Same.*

TEXAS

The chairman and each commissioner may
administer all oaths, certify to all official acts, and compel the
3877 attendance of witnesses and the production of papers, way bills, books, accounts, documents and testimony, and punish for contempt as fully as is provided by law for the district or county court. *Sayles' Civ. Stats. 1897, art. 4563(2).*

Commission, in making any examination or investigation, may issue subpoenas for the attendance of witnesses by such rules as it may prescribe. In case any witness shall fail or refuse to obey such subpoena, commission may issue an attachment for said witness, directed to any sheriff or any constable of the state, and compel him to attend before commission and give his testimony upon such matters as shall be lawfully required by it. If a witness, after being duly summoned, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, commission may fine and imprison such witness for contempt, in the same manner

3578 that a judge of the district court might do under similar circumstances. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding; provided, commission may in all cases in its discretion issue proper process and take depositions instead of compelling personal attendance of witnesses. The sheriff or constable executing any process issued under the provisions of this article, or under any other provisions of this chapter, shall receive such compensation as may be allowed by commission, not to exceed fees as now prescribed by law for similar services. *Same, art. 4572.*

See also par. 829.

VERMONT

Commission may, so far as is necessary for the performance of its duties, examine the books, accounts and papers of any person or corporation operating a railroad within this state, subpoena witnesses, administer oaths to them, examine them on all matters of which commission has jurisdiction, and compel, by proceedings for contempt, such witnesses to attend the sessions of commission and to answer any proper questions, 3579 to produce and exhibit to commission the books, accounts or papers of any person or corporation operating a railroad within this state, or of any other person, when their examination is pertinent to the matters under consideration. Witnesses duly subpoenaed who refuse or neglect to appear, or who refuse to testify, shall be subject to the provisions and penalties of the statute applicable to witnesses who neglect or refuse to obey subpoenas to appear and testify before courts at law and in equity. *Pub. Stats. 1906, sec. 4603.*

Commission may subpoena witnesses, administer oaths to them and examine them on all matters of which commission has jurisdiction, and compel, by proceedings for contempt, such witnesses to attend the sessions of commission, and to answer any proper questions, to produce and exhibit to commission the books, accounts or papers of any company, receiver, trustee or lessee, owning or operating any plant or line so subject to supervision, which in any way relate to or contain entries, data or 3580 memoranda, concerning any transaction within this state or with any person residing or having a place of business within this state or of any other person when their examination is pertinent to the matters under consideration. Witnesses duly subpoenaed who refuse or neglect to appear or who refuse to testify, shall be

subject to the provisions and penalties of the statutes applicable to witnesses who neglect or refuse to obey subpoenas to appear and testify before courts at law and in equity. *Laws 1908, no. 116, sec. 3.*

See also pars. 1751, 3702.

VIRGINIA

In all matters pertaining to the public visitation, regulation or control of corporations, and within the jurisdiction of commission, it shall have the powers and authority of a court of record, to administer oaths, to compel the attendance of witnesses and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of commission while in session, and to enforce compliance with any of its lawful orders or requirements by
§§§1 adjudging, and enforcing by its own appropriate process, against the delinquent or offending company (after it shall have been first duly cited, proceeded against by due process of law before commission sitting as a court, and afforded opportunity to introduce evidence and to be heard, as well against the validity, justness or reasonableness of the order or requirement alleged to have been violated, as against the liability of the company for the alleged violation), such fines or other penalties as may be prescribed or authorized by this constitution or by law. *Const., sec. 156(c).*

See also par. 883.

WASHINGTON

Each commissioner may administer oaths, certify to all official acts, and issue subpoenas for the attendance
§§§2 of witnesses and the production of papers, way bills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. *Laws 1911, ch. 117, sec. 75.*

The superior court of the county in which any such inquiry, investigation, hearing or proceeding may be had, may compel the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony as required by such subpoena. Commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers,

and that the witness has been summoned in the manner prescribed in this act, and that the fees and mileage of the witness have been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before
3583 commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before commission. The court, upon the petition of commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by commission, the court shall thereupon enter an order that said witness appear before commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court. In all proceedings before commission, commission may, in their discretion, limit the number of witnesses testifying upon any subject or proceeding to be inquired of before commission. *Same.*

The commissioner shall have power to compel the attendance of witnesses at any place within the state. *Same, sec. 76.*
3584

Process issued under the provisions of this act shall be served as in civil cases. *Same.*
3585

In case any public service company shall refuse to exhibit at its principal office in the United States any book, record or document to commission or to any member thereof, or to any agent or employe thereof properly authorized, or to furnish a
3586 sworn copy of such book, record or document on demand, commission may require from any such company the production within the state, at such time and place as it may designate, of any books, records or documents kept by such company without the state. *Same, sec. 79.*

Commission may require from any public service company the production of any books, records, or documents kept by such company in any office or place without the state. Such demand
3587 shall be served upon the public service company in the manner provided for the service of orders herein. Such public service company may appear before commission and show cause, if any

there be, why such order should not be complied with and such order shall be made after such hearing as commission may deem proper. *Same.*

See also pars. 234, 2679, 2774, 3787.

WISCONSIN

Each of the commissioners may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony. In case of disobedience on the part of any person or persons to comply with any order of commission or any commissioner or any subpoena, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the circuit court of any county, or the judge thereof, on application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. *Laws 1905, ch. 362, sec. 1797-13.*

Also provisions identical with par. 3563 (including footnote thereto). *Laws 1905, ch. 362, sec. 1797-18(c). Laws 1907, ch. 499, secs. 1797m-39(1), 1797m-39(2).*

Each of the commissioners and every agent provided for in section 1797m-41 of this act may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. *Laws 1907, ch. 499, sec. 1797m-53(1).*

In case of disobedience on the part of any person or persons to comply with any order of commission or any commissioner or any subpoena or, on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before commission or its agent authorized as provided in section 1797m-41, it shall be the duty of the circuit court of any county or the judge thereof, on application of a commissioner to compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. *Same, sec. 1797m-53(2).*

See also pars. 3140, 3301, 3302.

2. Compensation of Witnesses.

UNITED STATES Witnesses summoned before commission shall be paid same fees and mileage that are paid witnesses in courts of the United States. *Act to Regulate Commerce, sec. 18.*

Witnesses whose depositions are taken pursuant to this act,
3893 and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States. *Same, sec. 12.*

ALABAMA Each witness who shall appear before commission by its order shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers, sworn to by such witness and
3894 proved by the president of the commission, provided that no witness subpoenaed at the instance of parties other than commissioners shall be entitled to compensation from the state for attendance or travel, unless commission shall certify that his testimony was material to the matter investigated, and witnesses summoned on behalf of the transportation company shall be paid by the same company. *Code 1907, sec. 5675.*

ARIZONA Each witness who shall appear by order of commission or a commissioner shall receive for his attendance the same fees allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party shall be subpoenaed by commission, his fees shall be paid from the fund appropriated for the use of commission in the same manner as other expenses of commission are paid. Any witness subpoenaed except one whose fees may be paid from the funds of commission, may, at the
3895 time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before commission or commissioner, as directed in the subpoena. All fees to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation. *Sess. Laws 1912, ch. 90, sec. 55(a).*

ARKANSAS Every witness who shall appear by order of commission at a place outside of the county of his residence shall

receive for his attendance \$1.50 per day, and five cents per mile, traveled by the nearest practicable route, in going to and returning from the place of meeting of commission, but witnesses who reside within the county in which commission meets shall receive \$1.50 per day for each day's attendance, but no mileage, which shall be paid upon the warrant of the auditor, upon the presentation of the proper vouchers, sworn to by such witness
3596 and approved by the chairman of commission; provided, that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any railroad in this state, or out of it, or who is in anywise interested in any stock, bond, mortgage, security or earnings of any such road, or who shall be the agent or employe of such road, or any officer thereof, when summoned at the instance of such railroad, and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. *Kirby's Digest 1904, sec. 6825.*

CALIFORNIA Identical with par. 3595, except that "fees"
3597 reads "fees and mileage." *Stats. 1911, 1st. ex. sess., ch. 14, sec. 55(a).*

COLORADO Witnesses summoned before commission shall
3598 be paid same fees and mileage that are paid witnesses in the district courts of this state. *Laws 1910, sp. sess., ch. 5, sec. 18.*

CONNECTICUT The fees of witnesses summoned by commission, or by any member thereof, to appear before it or him, under the provisions of this section, and the fees for summoning witnesses, shall be the same as in the superior court. All such
3599 fees, together with any other expenses authorized by this act the method of payment of which is not herein otherwise provided, shall, when taxed by commission, be paid by the state through secretary of commission in the same manner as court expenses. *Pub. Acts 1911, ch. 128, sec. 9.*

FLORIDA Witnesses shall receive for attendance same fees and mileage as now allowed witnesses by law in the circuit court, to be ordered paid by the governor upon presentation of
3600 subpoena, accompanied by affidavit of the witness as to the number of days served and miles traveled, made before the clerk of commission, who is hereby authorized to administer oaths. *Gen. Stats. 1906, sec. 2916.*

GEORGIA

Witnesses shall receive for attendance \$2 per day, and five cents per mile, traveled by the nearest practicable route in going to and returning from the place of meeting of
2401 commission, to be ordered paid by the governor upon presentation of subpoenas, sworn to by the witnesses, as to number of days served and miles traveled, before the clerk of said commission, who is hereby authorized to administer oaths. *Code 1911, sec. 2653.*

KANSAS

Each witness who shall appear before commission, or any member thereof, in answer to a subpoena shall receive for his attendance one dollar and a half per day and five cents per mile, traveled by the nearest practicable route in going to and returning from the place where the witness is
2402 directed to appear, which shall be ordered paid by the auditor of state, when the state is liable therefor, who shall draw and deliver his warrant upon the state treasurer to such witness for such amount, upon the presentation of proper vouchers, sworn to by such witness and approved by the chairman of commission. *Gen. Stats. 1909, sec. 7175.*

MAINE

See par. 2634.

MARYLAND

The fees of witnesses required to attend before commission or a commissioner shall, where hearing is in Baltimore City, be the same as allowed by the courts of Baltimore City for the attendance of witnesses in cases before them, and where the hearing is in any of the counties, shall be the same as allowed by
2403 the circuit court of the county in which hearing takes place, for attendance of witnesses before it, and the disbursements made in the payment of such fees shall be duly audited in accordance with a due and satisfactory method of auditing and bookkeeping, and shall be included in and paid in the same manner as is provided for the payment of other expenses of commission. *Laws 1910, ch. 180, sec. 9.*

MASSACHUSETTS

The fees of witnesses for attendance and travel shall be the same as for witnesses before the superior court, and
2404 shall be paid by the commonwealth. *Acts 1906, ch. 433, sec. 13; ch. 463, pt. i, sec. 19.*
See also par. 2637.

MICHIGAN

Each witness who shall appear before commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in circuit court;

3205 provided, that no witnesses subpoenaed at the instance of parties other than commission shall be entitled to compensation from the state for attendance and travel, unless commission shall certify that his testimony was material and necessary to the matter investigated. *Pub. Acts 1909, no. 300, sec. 23(b)*.

MINNESOTA Witnesses shall receive the same fees and mileage as in civil actions. *Rev. Laws 1905, sec. 1968*.

MISSISSIPPI Where witnesses are summoned to appear before commission, they shall be entitled to the same per diem and mileage as witnesses attending the circuit court; and witnesses 3207 summoned by commission on its behalf shall be paid as other expenditures of commission, upon certificate of commission showing the amount to which such witnesses may be entitled, and witnesses summoned for any railroad, or other carrier, shall be paid by it. *Laws 1908, ch. 85, sec. 1*.

MISSOURI *See par. 963*.

MONTANA Each witness shall receive the sum of \$3 per day, together with the sum of five cents per mile traveled by the nearest practicable route in going to and returning from the place 3208 of meeting of commission. And no witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation. *Rev. Codes 1907, sec. 4381*.

NEBRASKA Witness fees shall be paid as provided by law in attendance at any district court in this state. *Cobbey's 3209 Annot. Stats. 1909, sec. 10650(k)*.

NEVADA Each witness who shall appear before commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers, sworn to by such witnesses and approved by the chairman of commission; provided, that no witness subpoenaed at the instance of parties other than commission shall be entitled to compensation from state for attendance or travel unless commission shall certify that his testimony was material to the matter investigated. *Stats. 1907, ch. 44, sec. 13(a), as amended, by Stats. 1909, ch. 121, sec. 6*.

NEW HAMPSHIRE Witnesses summoned before commission shall be paid the same fees as witnesses summoned to appear before
2611 the superior court and such summons issued by any justice of the peace shall have the same effect as though issued for appearance before the superior court. *Laws 1911, ch. 164, sec. 2(l).*

NEW JERSEY The fees of witnesses required to attend before commission shall be \$1 for each day's attendance and three cents for every mile of travel, by the nearest generally traveled route, in going to and from the place where the attendance of the witness is required, such fees to be paid when the witness is excused from further attendance, and the disbursements made in pay-
3612 ment of such fees shall be audited and paid in the same manner provided for the payment of expenses of commission; provided, however, that no witness subpoenaed at the instance of parties other than commission shall be entitled to compensation from the state for attendance or travel, unless commission shall certify that his testimony was material to the matter investigated.
Laws 1911, ch. 195, sec. 27.

NEW MEXICO Witness fees and mileage of witnesses appearing before commission or an examiner shall be paid at the same rates as provided by law for witnesses before the district court and shall be paid by the party at whose instance they are sum-
3613 moned. When any party requests commission to summon a witness he shall, before subpoena issue, deposit with the clerk a sufficient sum of money to pay the fees and mileage of such witness. Witnesses summoned by commission of its own motion shall be paid out of the contingent expense fund of commission.
Laws 1912, ch. 78, sec. 7.

NEW YORK The fees of witnesses required to attend before a commission, or a commissioner, shall be \$2 for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route is going to and from the place where attendance of the witness is required, such fees to be paid when the witness is excused from further attendance; and the disbursements made in the payment of such fees shall be audited and paid
3614 in the first district in the same manner provided for the payment of expenses of commission. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before commission, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance

the witness is summoned. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record. *Laws 1910, ch. 480, sec. 19(1).*

NORTH DAKOTA Witnesses summoned before commission shall
3615 be paid the same fees and mileage as are paid witnesses in the district court. *Rev. Codes 1905, sec. 4379.*

OHIO A provision identical with par. 3610. *Code*
3616 *1910, sec. 532.*

OREGON Each witness who shall appear before commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record; provided, that no witness subpoenaed at the instance of parties other than commission shall be entitled to compensation from state for attendance or travel unless commission shall certify
3617 that his testimony was material to the matter investigated; and provided, that no witness shall be entitled to any witness fee or mileage who is an officer, agent, or employe of any railroad, when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled upon such free transportation. *Gen. Laws 1907, ch. 53, sec. 29.*

Each witness who shall appear before commission or its agent by its order, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of
3618 record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by commission; provided, no witnesses shall be entitled to receive double mileage fees. *Gen. Laws 1911, ch. 279.*

No witness subpoenaed at the instance of parties other than commission shall be entitled to compensation from the state for
3619 attendance or travel unless commission shall certify that his testimony was material to the matter investigated. *Same.*

See also par. 498.

PENNSYLVANIA Fees of witnesses before commission shall be \$2 for each day's attendance, and five cents for every mile of
3620 travel, by the nearest generally traveled route, in going to and returning from the place where the attendance of the witness is required. *Laws 1907, no. 250, sec. 20.*

SOUTH CAROLINA Witnesses shall receive from the state treasury for attendance \$1 per day and five cents per mile traveled by the nearest practical route in going to and returning from the
3021 place of meeting of commission to be ordered paid by the comptroller general upon presentation of subpoenas sworn to by the witnesses as to the number of days served and miles traveled, before the clerk of commission who is hereby authorized to administer oaths. *Gen. Stats. 1902, sec. 2077.*

TENNESSEE Each witness who shall appear before commission by order of commission, shall receive for his attendance the compensation now provided by law, which shall be paid by the state treasurer on warrant of the comptroller, upon the presentation of proper voucher sworn to by such witness, and approved by the chairman of commission. Provided, that no witness shall
3022 be entitled to any witness fees or mileage who is directly or indirectly interested in any railroad in this state or out of it, or who is in any way interested in any stock, bond, mortgage, security or earnings of any such road, or who shall be the agent or employe of such road, or an officer thereof when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. *Acts 1897, ch. 10, sec. 10.*

TEXAS Each witness who shall appear before commission by order of commission, at a place outside of the county of his residence, shall receive for his attendance \$1 per day and three cents per mile traveled by the nearest practicable route, in going to and returning from the place of meeting of commission, which shall be ordered paid by the comptroller of public accounts upon the presentation of proper vouchers, sworn to by such witness and approved by the chairman of commission; provided, that no
3023 witness shall be entitled to any witness fees or mileage who is indirectly interested in any railroad in this state or out of it, or who is in any wise interested in any stock, bond, mortgage, security, or earnings of any such road, or who shall be the agent or employe of such road, or an officer thereof, when summoned at the instance of such railroad; and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. *Sayles' Civ. Stats. 1897, art. 4572.*

VERMONT Fees of witnesses for attendance before com-
3024 mission shall be the same as in the county court; and, in all causes

in behalf of, or for the convenience or safety of the public, the witnesses with the expense of obtaining their attendance, shall be paid by the state. *Pub. Stats. 1906, sec. 4604.*

WASHINGTON Each witness who shall appear before commission under subpoena shall receive for his attendance \$3 per day and five cents per mile traveled by the nearest practicable route in going and returning from the place of hearing; provided, that no witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service corporations affected. *Laws 1911, ch. 117, sec. 76.*

WISCONSIN A provision identical with par. 3610. *Laws 1905, ch. 362, sec. 1797-13(a).*

Each witness who shall appear before commission or its agent by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of commission. *Laws 1907, ch. 499, sec. 1797m-54(1).*

No witness subpoenaed at the instance of parties other than commission shall be entitled to compensation from the state for attendance or travel unless commission shall certify that his testimony was material to the matter investigated. *Same, sec. 1797m-54(2).*

See also par. 3140.

3. Immunity of witnesses.

UNITED STATES No person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before interstate commerce commission, or in obedience to the subpoena of commission, whether such subpoena be signed or issued by one or more commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the act of congress, entitled "An act to regulate commerce," approved February 4, 1887, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction,

matter or thing, concerning which he may testify, or produce evidence, documentary or otherwise, before said commission, or in obedience to its subpoena, or the subpoena of either of them, or in any such case or proceeding; provided, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. *Immunity of Witnesses Act, 1893.*

3630 Immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. *Immunity of Witnesses Act, 1906.*

See also par. 3487.

ALABAMA

No person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and other documents before commission, or in obedience of subpoena of commission, whether such subpoena be signed or issued by one or more of the members of commission in any investigation held by or before commission, or in any cause or proceeding in any court by or against commission provided for in this section, on the ground or for the reason that 3631 the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be required to testify or produce evidence, documentary or otherwise before commission, or in obedience to its subpoena, or in any such cause or proceeding, provided that no person so testifying shall be exempted from prosecution and punishment for perjury committed in so testifying. *Code 1907, sec. 5674.*

ARIZONA, CALIFORNIA

No person shall be excused from testifying or from producing any book, way bill, document, paper or account in any investigation or inquiry by or hearing before commission or any commissioner, when ordered to do so, upon the ground that the testimony or evidence, book, way bill, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted. 3132 punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath have testified or produced documentary evi-

dence; provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any public service corporation¹ immunity of any kind. *Ariz.—Sess. Laws 1912, ch. 90, sec. 55(d); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 55(d).*

See also par. 3500.

ARKANSAS *See par. 3496.*

CONNECTICUT *See par. 3501.*

FLORIDA *See par. 3503.*

GEORGIA *See par. 4084.*

INDIANA *See par. 3509.*

IOWA *See pars. 2111, 3511, 4284.*

KANSAS No person shall be excused from testifying or from producing any books, accounts, maps, papers or documents in any action or proceeding, based upon or growing out of any alleged violation of any of the provisions of this act, on the ground or for the reason that the testimony or evidence, documentary or oral, required from him, may tend to incriminate him or subject him to penalty or forfeiture; but no person having so testified shall be prosecuted or subject to any penalty, punishment or forfeiture on account of any transaction, matter or thing concerning which he may have testified or produced any documentary evidence, providing that no person so testifying shall be exempted from prosecution or punishment for perjury committed in so testifying. *Laws 1911, ch. 238, sec. 17.*

MARYLAND A provision substantially identical with par. 3634 3632; also a provision substantially identical with par. 3633. *Laws 1910, ch. 180, secs. 10, 48.*

MICHIGAN *See par. 4343.*

MONTANA No person shall be excused from attending or testifying, or producing any books, papers, documents, or any thing or things, before any court or magistrate, or commissioner or commission, upon any investigation, proceeding or trial under the provisions of this act or for any violation of any of them, upon the ground or for the reason that the testimony or evidence documentary or otherwise required of him, may tend to

¹ "Public utility," in California.

convict him of a crime, or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence; and no testimony or evidence so given or produced shall be received against him upon any civil or criminal proceeding, action or investigation. *Rev. Codes 1907, sec. 4381.*

NEBRASKA

See par. 3534.

NEVADA

Substantially identical with par. 3633. *Stats. 3636 1911, ch. 162, sec. 22.*

NEW HAMPSHIRE No person shall be excused from testifying in a proceeding instituted against another person or a corporation under the foregoing sections for the reason that he may thereby
3637 criminate himself; but no testimony so given by him shall be used, directly or indirectly, as evidence against him in any prosecution, nor shall he be prosecuted thereafter for any offense so disclosed by him. *Laws 1909, ch. 126, sec. 7.*

No person shall be excused from testifying or from producing any book or paper in any investigation or inquiry by or upon any hearing before commission when ordered to do so by commission, upon the ground that the testimony or evidence, book or document required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted,
3638 punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which under oath, after claiming his privilege, he shall by order of commission have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving to any corporation immunity of any kind. *Laws 1911, ch. 164, sec. 2(m).*
See also par. 2161.

NEW JERSEY

A provision substantially identical with par.
3639 3632. *Laws 1911, ch. 195, sec. 29.*

No member or employe of commission shall be required to
3640 give testimony in any civil suit to which commission is not a party, with regard to information obtained by him in the discharge of his official duty. *Same.*

NEW MEXICO *See par. 3542.*

NEW YORK Substantially identical with par. 3632. *Laws 3641 1910, ch. 480, sec. 20.*

NORTH DAKOTA *See par. 3554.*

OHIO Provisions substantially identical with par. 3642 3633. *Code 1910, sec. 553. Laws 1911, no. 325, sec. 41.*

OREGON Provisions substantially identical with par. 3643 3633; also provisions identical with par. 3630. *Gen. Laws 1907, ch. 53, sec. 37. Gen. Laws 1911, ch. 279, sec. 59.*

RHODE ISLAND Substantially identical with par. 3632. *Acts 3644 1912, ch. 795, sec. 16.*

SOUTH DAKOTA No person shall be privileged from testifying in relation to anything herein contained, but no such person shall thereafter be prosecuted for any offense concerning which 3645 he may have been required to testify, and the testimony so given shall not be used in the prosecution of any such person in any criminal action whatever, except in actions for perjury in giving such testimony. *Sess. Laws 1907, ch. 221, sec. 7.*

TENNESSEE No officer, agent, servant or employe of any railroad company, who shall appear and testify before commission under the provisions of this act, or any civil or criminal 3646 proceedings instituted by them under the provisions of this act, shall be liable to indictment or presentment for any violation of this act about which they so testify. *Acts 1897, ch. 10, sec. 10.*

TEXAS *See par. 3578.*

WASHINGTON The claim by any witness that any testimony sought to be elicited may tend to incriminate him shall not excuse such witness from testifying, but such evidence or testimony 3647 shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. *Laws 1911, ch. 117, sec. 76.*

WISCONSIN Provisions substantially identical with par. 3648 3633. *Laws 1905, ch. 362, sec. 1797-17(a). Laws 1907, ch. 499, sec. 1797m-72.*
See also par. 4438.

4. *Depositions.*

UNITED STATES The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation pending before commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or
3649 court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party, or his attorney, proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before commission as hereinbefore provided. *Act to Regulate Commerce, sec. 12.*

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth,
3650 and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. *Same.*

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken
3651 before an officer or person designated by commission, or agreed upon by the parties by stipulation in writing to be filed with commission. All depositions must be promptly filed with commission. *Same.*

ALABAMA Commission may, in investigation, cause the depositions of witnesses residing within or without the state to
3652 be taken in the manner prescribed by law for depositions in civil actions in circuit courts, said deposition to be taken on a com-

mission to be issued by the clerk of commission made returnable to commission. *Code 1907, sec. 5676.*

ARIZONA

Commission or any commissioner or any party may, in any investigation or hearing before commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like deposition in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of books, way bills, documents, papers and accounts. *Sess. Laws 1912, ch. 90, sec. 55(c).*

See also par. 368.

ARKANSAS

Commission shall in all cases have the right to issue proper process and take depositions instead of compelling personal attendance of witnesses. *Kirby's Digest 1904, sec. 6825.*

CALIFORNIA

Identical with par. 3653. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 55(c).*

COLORADO

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation pending before commission, by deposition, at any time after a cause or proceeding is at issue on complaint and answer; such depositions shall be conducted as are depositions in the courts of this state. *Laws 1910, sp. sess., ch. 5, sec. 12.*

INDIANA

Instead of requiring the personal attendance of any witness, his deposition may be taken at the instance of a party in any proceeding or investigation pending before commission at any time after such investigation has been commenced, or after any such complaint has been filed and notice thereof duly served. Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such deposition shall be taken, certified and published in the manner now provided by the laws of this state concerning the procedure in civil cases, or in such other manner as the commission, in its order, may direct. And any person whose deposition is being so taken may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before commission as hereinbefore provided. *Acts 1907, ch. 241, sec. 11, as amended by Acts 1911, ch. 225, sec. 3.*

KANSAS Commission shall in all cases have the right, in its discretion, to issue proper process and take depositions, ~~2050~~ instead of compelling personal attendance of witnesses, as depositions are taken in civil cases. *Gen. Stats. 1909, sec. 7175.*

LOUISIANA *See par. 3514.*

MAINE *See par. 1111.*

MICHIGAN Commission or any party may, in any investigation, cause depositions of witnesses residing within or without ~~2000~~ the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts. *Pub. Acts 1909, no. 300, sec. 23(c).*

NEBRASKA Testimony may be taken by deposition as in ~~2000~~ suits at law. *Cobbey's Annot. Stats. 1909, sec. 10650 (k).*

NEVADA Commission or any party may, in the investigation, cause the depositions of witnesses residing within or with- ~~2001~~ out the state to be taken in the manner prescribed by law for like depositions in civil actions in district courts. *Stats. 1907, ch. 44, sec. 13(b), as amended by Stats. 1909, ch. 121, sec. 6.*

~~2000~~ Commission, or any party to any proceeding before it, may cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil actions. *Stats. 1911, ch. 162, sec. 20.*

NEW JERSEY Commission may, in any investigation or hearing, by its order in writing, cause the depositions of wit- ~~2003~~ nesses residing within or without the state to be taken in such manner as it may, by rule, prescribe. *Laws 1911, ch. 195, sec. 28.*

NEW MEXICO The testimony of any witness may be taken by deposition, at the instance of any party to the proceeding of commission, in the manner as allowed by law in civil causes, but notice of intention to apply for a commission to take the answers of witnesses to interrogatories shall not be filed with the clerk of ~~2004~~ commission until the parties affected by the proceeding in which such testimony is desired to be used shall have been served with the notice of hearing of the proceeding. Costs of taking depositions and witness fees shall be paid by the party applying therefor at the same rate as prescribed by the laws providing for depositions in civil causes. *Laws 1912, ch. 78, sec. 6.*

In said laws, commission, any commissioner and the clerk thereof, shall be substituted for the district court, the judge and clerk of the district court, respectively, wherever such officers or said court are mentioned in such laws. *Same.*

OHIO

In an investigation, commission or any party may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the court of common pleas. *Code 1910, sec. 533.*

OKLAHOMA

Commission is authorized at a time and place fixed by commission to have depositions taken upon the application of either party to any cause pending before it, or upon its own motion; and it is further authorized to designate a person to take depositions under such rules and regulations as may be prescribed by commission. *Sess. Laws 1908, ch. 18 art. iii, sec. 9.*

OREGON

Commission or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. *Gen. Laws, 1907, ch. 53, sec. 29. Gen. Laws 1911, ch. 279, sec. 49.*

PENNSYLVANIA

Commission may issue commissions to take the testimony of absent, infirm, or waygoing witnesses, according to the rules of the courts of equity. *Laws 1907, no. 250, sec. 13.*

TENNESSEE

Commission may in its discretion take depositions instead of compelling personal attendance of witnesses. *Acts 1897, ch. 10, sec. 10.*

WASHINGTON

Commission may take the testimony of any witness by deposition, and for that purpose the attendance of witnesses and the production of books, way bills, documents, papers and accounts may be enforced in the same manner as in the case of hearings before commission, or any member thereof. *Laws 1911, ch. 117, sec. 76.*

WISCONSIN

Identical with par. 3668. *Laws 1905, ch. 362, sec. 1797-13(b). Laws 1907, ch. 499, sec. 1797m-55.*

C. PROCEDURE IN INVESTIGATIONS AND PROCEEDINGS BEFORE COMMISSION.

1. *Complaints.*

UNITED STATES Any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier, in contravention of the provisions of this act, may apply to commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of commission to investigate the matters complained of in such manner and by such means as it shall deem proper. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. *Act to Regulate Commerce, sec. 13.*

ARIZONA

Complaint may be made by commission of its own motion or by any corporation or persons, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation including any rules, regulation or charges heretofore established or fixed by or for any public service corporation, in violation, or claimed to be in violation, of any provision of law or of any order or rule of commission; provided, that no complaint shall be entertained by commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or a majority of the council, commission, or other legislative body of the city or town, if

any, within which the alleged violation occurred, or not less than 25 consumers or purchasers or prospective consumers or purchasers, of such gas, electricity, water or telephone service. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or non-joinder of parties and in any review by the courts
3074 of orders or decisions of commission the same rule shall apply with regard to the joinder of causes and parties as herein provided.

Commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant. Upon the filing of a complaint, commission shall cause a copy thereof to be served upon the corporation or person complained of. All public service corporations, domestic or foreign, doing, transacting or soliciting any business in this state, shall appoint a bona fide resident of this state, who has been a resident of this state for at least three years, its agent, upon whom all notices, orders, decrees, charges and processes, including service of summons, may be served, and when so served, shall be taken and held to be lawful personal service on such corporation. Such appointment of agent shall be filed in the office of commission. Service may likewise be had in accordance with the provisions of the general laws of this state, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid. No irregularity regarding service shall be used by any public service corporation as a ground of excuse or defense. Commission shall fix the time when and the place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless commission shall find that the public necessity requires that such hearing be held at an earlier date.
Sess. Laws 1912, ch. 90, sec. 60.

Any public service corporation shall have a right to complain on any of the grounds upon which complaints are allowed to be
3075 filed by other parties, and the same procedure shall be adopted and followed as in other cases except that the complaint may be heard, *ex parte* by commission, or may be served upon any parties designated by commission. *Same, sec. 62.*

CALIFORNIA

Complaint may be made by commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or com-

plaint in writing, setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of commission; provided, that no complaint shall be entertained by commission, except upon its own motion, as to the reasonableness of any rates of charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than 25 consumers or purchasers or prospective consumers or purchasers, of such gas, electricity, water or telephone service. All matters
3676 upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or decisions of commission the same rule shall apply with regard to the joinder of causes and parties as herein provided. Commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant. Upon the filing of a complaint, commission shall cause a copy thereof to be served upon the corporation or person complained of. Service in all hearings, investigations and proceedings pending before commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the code of civil procedure of this state, and may be made personally or by mailing in a sealed envelope, registered, with postage prepaid. Commission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than ten days before the time set for such hearing, unless commission shall find that public necessity requires that such hearing be held at an earlier date. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 60.*

3677 Also a provision identical with par. 3675, except that "public service corporation" reads "public utility." *Same, sec. 62.*

COLORADO

Any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization or any common carrier, or any shipper, consignee or applicant for cars, complaining of anything done or omitted to be done by any common carrier, or in contravention of any of the provisions of this act, may apply to

commission by petition which shall briefly state the facts, whereupon a statement of the charges thus made shall be immediately forwarded by commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to be done, such common carrier shall be relieved of liability to the complainant, only for the particular violation of the law complained of. If such common carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating such complaint, commission shall investigate the matters complained of in such manner and by such means as it shall deem proper, and arrive at a finding therein, and notify such common carrier of such finding, together with the amount of damages, if any, as provided in this act, decided as just by commission. *Laws 1910, sp. sess., ch. 5, sec. 13.*

ILLINOIS

Any shipper, or any shippers' or other commercial organization or association, or any person, firm, copartnership, joint stock company or corporation may file complaint with commission against any express company or carrier by express, wherein it may be claimed an unjust charge has been made for the transportation of property, merchandise, parcels, packages, money or other commodity or things, in such manner and form as commission may prescribe. And it shall be the duty of commission to take cognizance of such complaints and to proceed with a hearing, after due notification to the express company or carrier by express so complained of, in such manner as it may prescribe by its rules of practice. At such hearing or hearings before commission, copies of contracts, agreements, tariffs, schedules of charges, rules and regulations and classifications that may have been filed with commission by such express company or carrier by express, shall be considered prima facie evidence of what they purport to be. Any person or party interested shall have the right of appeal from the order or decision of commission to a court of competent jurisdiction but the order or decision of commission shall prevail pending such appeal and the decision of the court unless enjoined or set aside by the court. *Revisal 1909, sec. 372.*

INDIANA

The provisions of this section shall be construed to mean that the power of commission extends to any case

where any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complain of anything done, or omitted to be done, by any common carrier, and shall apply to commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by commission to such common carrier who shall be called upon to satisfy the complaint, or to answer same in writing within a reasonable time to be specified by commission. If such carrier shall not satisfy 3680 the complaint within the time specified or there shall appear to be any reasonable ground for investigating said complaint, commission shall investigate the matters complained of, and no complaint shall at any time be dismissed because of the absence of direct damage to the complainant. Commission may after such investigation make such corrections, alterations, changes or new rules or regulations or rates as may be necessary to prevent injustice or discrimination to the party complaining or to any other person, firm or corporation provided, that when any rate, charge, classification, rule or regulation shall have been so made, changed, modified or added to by commission such order shall operate for the benefit of all persons or corporations situated similarly with said complaining party. *Acts 1907, ch. 241, sec. 3(h).*

IOWA \ Any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier in contravention of the provisions of this act may apply to commission by petition, briefly stating the facts; whereupon a copy of the complaint with the damages, if any are claimed, shall be forwarded by commission to such carrier, who shall be requested to satisfy the complaint, or answer the same in writing within a reasonable time to be fixed by commission. If such carrier within the time specified shall make reparation for the injury alleged to have 3681 been done, or shall correct the wrong complained of, it shall be relieved of liability to the complainant for the particular violation complained of. If it shall not satisfy the complaint within the time fixed, or there shall appear to be any reasonable ground for investigating the complaint, commission shall inquire into the matters complained of in such manner and by such means as it shall think proper. Whenever it has sufficient reason to believe that any carrier is violating any of the provisions of this chapter, it shall at once institute an inquiry, as though complaint had been

made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. *Code 1897, sec. 2134.*

KANSAS

Commission shall, upon complaint of any person, firm, association or corporation, or the mayor and council of any city, or the attorney for commission, setting forth that the freight or passenger tariffs put into effect by the railroad company, within the state, or any charges or classifications made by such company, or any rules or regulations as to the handling of cars, the running of trains, or other matter concerning such company in the operation of its road within this state, are unreasonable, unjust, or discriminative, or violative of the laws of Kansas, or the order of commission, and that the same should be altered, amended, or changed, to investigate such tariffs, charges, classifications, rules and regulations or other matter concerning such company in the operation of its road specified in such complaint, and forthwith notify the company complained against of the filing thereof, and deliver to the general manager, general attorney or other chief officer of such company or common carrier within the state a copy of such complaint, and shall notify such company or common carrier that unless the matter complained of is rectified within ten days from the date of service of such notice that commission will consider such complaint at a time fixed by commission to be stated in such notice, not exceeding 20 days from the date of service of such notice, and such hearing may be adjourned from time to time upon the order of commission. Such complaint shall be heard and considered in an informal manner, without further pleadings, except the answers of said defendants, and under such rules and regulations as commission may from time to time provide and order to secure a speedy hearing and an equitable determination of the questions involved. Printed copies in volumes or pamphlets of the reports, orders or decisions of the interstate commerce commission or of commissioners of any other state, purporting or proved to have been published by the authority thereof, shall be admitted as competent evidence when otherwise material in all hearings before commission or by the courts of this state in all actions relating to the orders of commission. The attorney for commission shall appear at such hearings on behalf of the party or parties making such complaint, and said parties may, if they desire, employ other counsel to assist in the preparation and hearing of any such complaint. Upon such hearing commission shall give full hearing upon the matters set forth

in such complaint, and thereupon find, determine, prescribe and order what will be the just and reasonable rate or rates, charge or charges, to be thereafter made and observed in such case, and what regulation, classification or practice in respect to the matters involved will be just, fair, and reasonable, and should thereafter be made and followed. *Gen. Stats. 1909, sec. 7196.*

MARYLAND

Complaints may be made to commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier or corporation in violation, or claimed to be in violation, of any provision or law or the terms and conditions of its franchise or charter, or of any order of commission, or as being unfair, unreasonable, unjustly discriminating or unduly preferential. Upon the presentation of such complaint commission shall cause a copy thereof to be forwarded to the person or corporation complained of, accompanied by an order, directed to such person or corporation, requiring that the matter complained of be satisfied, or that the charge be answered in writing within a time to be specified by commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit or to permit the violation of law, franchise or order charged in the complaint, and shall notify commission of that before the time allowed for answer, commission need take no further action upon the charge. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its power as the facts justify. *Laws 1910, ch. 180, sec. 22.*

Whenever commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier or other corporation subject to the provisions of this act under this section, it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier complained of to satisfy the cause of complaint in whole or to the extent which commission may specify and require. *Same.*

MINNESOTA

Proceedings before commission against any carrier or public warehouseman shall be instituted by complaint verified as a pleading in a civil action, stating in ordinary language the facts constituting the alleged omission or offense. The par-

ties to such proceeding shall be termed, respectively "complainant" and "respondent." *Rev. Laws 1905, sec. 1963.*

Upon filing such complaint, if there appear reasonable grounds for investigating such matter, commission shall issue an order directed to such carrier or warehouseman, requiring him
3686 to grant the relief demanded, or show cause by answer within 20 days from the service of such notice why such relief should not be granted. Such order together with a copy of the complaint, shall forthwith be served upon the respondent. *Same, sec. 1964.*

The respondent may file and serve by mail upon the complainant, within 20 days after service of the order, an answer alleging that it has already granted the relief demanded, or setting up any matter of defense. If the answer allege the granting
3687 of the relief, the complainant shall within 20 days reply admitting or denying such allegation. If he fails to reply or admits the allegation, the proceeding shall be dismissed. *Same, sec. 1965.*

MISSISSIPPI Commission shall keep a docket of petitions and complaints, which shall be entered in regular order; the
3688 docket shall be called at each regular meeting of commission and the cases thereon disposed of, or if necessary, continued until the next meeting. *Code 1906, sec. 4832.*

In all cases of complaint other than a revision of its tariffs of charges or complaints concerning the same against a railroad or other common carrier, commission shall give the party complained of such reasonable notice as it may adjudge proper, but not less
3689 than five days. In other cases, where notice is given or required to be, or is proper to be given to any railroad or other common carrier, five days' notice shall be sufficient; but where anything is required to be done, such reasonable time must be allowed therefor as commission shall deem proper. *Same, sec. 4833.*

NEBRASKA Any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any railway company or common carrier, relative to the control and regulation of railway companies or common carriers under which commission has authority to act, may apply to commission by petition, briefly stating the fact, except as to the fixing, establishing and regulating of rates and charges for the transportation of freight otherwise provided for

in this act; whereupon a copy of the complaint shall be served upon such railway company or common carrier in the same manner as process in civil cases is served, who shall be required to satisfy the complaint or file a written answer thereto within a reasonable time to be fixed by commission. If said railway company or common carrier shall not satisfy the complaint within the time fixed, and there shall appear to be a reasonable ground for investigation of the complaint upon its merits, commission shall
2600 proceed to an inquiry and hearing into the matters complained of in such manner and by such means as it shall think proper, and shall give the parties thereto written notice of the time and place for such hearing, and upon such hearing commission shall make such order or orders with respect to said complaint as may be deemed just and reasonable. Whenever commission has reason to believe that any railway company or common carrier is violating any provisions of this act, or any laws of this state relative to the control and regulation of railway companies or common carriers, it shall at once institute an inquiry and fix a time and place for hearing thereon, upon their own motion, and shall make any order or orders as may upon said hearing be deemed just and reasonable. Provided, that nothing herein shall prevent any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or body politic, or municipal organization, or persons proceeding against said railway company or common carrier under the laws of this state for such cases made and provided. *Cobbey's Annot. Stats. 1909, sec. 10658.*

NEW HAMPSHIRE Any person may make complaint to commission by petition setting forth in writing any thing or act claimed to be done or omitted to be done by any railroad corporation in violation of any provision of law or of the terms and conditions of its franchises or charter or of any order of commission. Thereupon commission shall cause a copy of said complaint to be forwarded to the railroad corporation complained of which may be accompanied by an order, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by commission. If the railroad corporation
2601 complained of shall make reparation for any injury alleged and shall cease to commit or to permit the violation of law, franchise or order charged in the complaint, and shall notify commission of that fact before the time allowed for answer, commission shall not be required to take any further action upon the charges. If, however, said charges be not thus satisfied, and it shall appear to

commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and after notice and hearing take such action within its powers as the facts justify. *Laws 1911, ch. 164, sec. 10(a).*

NEW MEXICO Any person, firm, corporation, association, chamber of commerce, board of trade or any commercial, mercantile, agricultural, mining, manufacturing or other organization or common carrier complaining of any charge or rate of any railway, express, telegraph, telephone, sleeping car, transportation or transmission company or common carrier within this state or having any grievance against any railway company, transportation company or common carrier as to any matter, may initiate a proceeding before commission by petition or letter to obtain such relief as is within the powers of commission to grant. Such letter shall also be known as a petition, and a complaint of any charge or rate shall be known as a grievance. Commission may also, of its own motion, initiate a proceeding as to any such matters. *Laws 1912, ch. 78, sec. 2.*

The petition shall set forth the facts constituting the grievance and shall contain a prayer for the relief demanded. Any party, other than commission, initiating such proceeding shall be known as the petitioner, and the party or parties complained of and any party concerned therein other than commission or the petitioner, shall be known as the defendant. *Same.*

Any person, firm, corporation, association, chamber of commerce, board of trade or any commercial, mercantile, agricultural, mining, manufacturing, or other organization or common carrier not parties may apply for leave to intervene in any proceeding and shall be heard therein and shall be known as an intervenor. Such intervention shall set forth the intervenor's interest in the proceeding. Leave granted in such application shall entitle the intervenor to appear and be treated in all respects as a party to the proceeding. *Same.*

NEW YORK Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise

or charter or of any order of commission. Upon the presentation of such a complaint commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or
3688 that the charges be answered in writing within a time to be specified by commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify commission of that fact before the time allowed for answer, commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify. *Laws 1910, ch. 480, sec. 48(2).*

Complaints may be made to commission by any person or corporation aggrieved, by petition or complaint in writing, setting forth any act done or omitted to be done by any telegraph or telephone corporation alleged to be in violation of the terms or conditions of its franchise or charter or of any order of commission. Upon the presentation of such a complaint commission shall cause a copy thereof to be forwarded to the person or corporation complained of which may be accompanied by an order directed to such person or corporation requiring that the matters complained of be satisfied or that the charges be answered in
3686 writing within a time to be specified by commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit or permit the violation of law, franchise, charter or order charged in the complaint, if any there be, and shall notify commission of that fact before the time allowed for answer, commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied and it shall appear to commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper and take such action within its powers as the facts in its judgment justify. *Same, sec. 96(2).*

NORTH DAKOTA Any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any

body politic or municipal organization, complaining of anything done, or omitted to be done, by any railroad, railroad corporation or common carrier, in contravention of the provisions of this article, may apply to commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made with the damages, if any are alleged, shall be forwarded by commission to such railroad, railroad corporation or common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by commission. If such railroad, railroad, corporation or common carrier within the time specified shall make reparation for the
3897 injury alleged to have been done or shall correct the wrong complained of, it shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If it shall not satisfy the complaint, within the time specified, or there shall appear to be any reasonable ground for investigating said complaint it shall be the duty of commission to investigate the matters complained of in such manner and by such means as commission shall deem proper, and commission whenever they may have sufficient reason to believe that any railroad, railroad corporation or common carrier is violating any of the provisions of this article shall at once institute an inquiry in the same manner, and to the same effect, as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant or petitioner. *Rev. Codes 1905, sec. 4355.*

PENNSYLVANIA Any person, firm, corporation, or any mercantile, agricultural, or manufacturing, society, or any body politic or municipal organization, complaining of any thing done or omitted to be done by any common carrier in violation of law or of any decision, regulation, or recommendation of commission, may apply to commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same, in reasonable time, to be specified by commission. If such common
3898 carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the specific violation of law complained of. If such common carrier shall not satisfy the complaint within the time specified and there shall appear to be any

- reasonable ground for investigating said complaint, it shall be the duty of commission to investigate the matters complained of, in such manner and by such means as it shall deem proper. Commission may institute any inquiry of its own motion in the same manner and to the same effect as though complaint had been made. No complaint shall, at any time, be dismissed because of the absence of direct damage to the complainant. *Laws 1907, no. 250, sec. 8.*

SOUTH DAKOTA Any person, firm, corporation or association or any mercantile, agricultural or manufacturing society, or any body politic, commercial club, board of trade or municipal organization, complaining of any thing done or omitted to be done by any common carrier in contravention of the provisions of this article may apply to commission by petition, which shall briefly state the facts, whereupon a statement of the complaint thus made, with the damages, if any are alleged, shall be forwarded by commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by commission. If such common carrier shall within the time specified make reparation for the injury alleged to have been done, or shall correct the wrong complained of, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such common carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable grounds for investigating such complaint, it shall be the duty of commission to investigate the matters complained of, in such manner and by such means as commission shall deem proper, and commission whenever it may have sufficient reason to believe

- that any common carrier is violating any of the provisions of this article, shall at once institute an inquiry in the same manner and to the same effect as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant or petitioners. *Sess. Laws 1911, ch. 207, sec. 16.*

TEXAS Any person, firm, corporation or association, or any mercantile, agricultural or manufacturing association, or any body politic or municipal organization, complaining of anything done or omitted to be done by any railroad in violation of any law of this state or the provisions of this chapter for which

penalty is provided, may apply to commission in such manner and under such rules as commission may prescribe; whereupon, if there shall appear to commission to be any reasonable grounds for investigating such complaint, it shall give at least five days' notice to such railroad of such charge and complaint, and call upon said road to answer the same at a time and place to be specified by commission. Commission shall investigate and determine such complaint under such rules and modes of procedure as it may adopt. If commission find that there has been a violation, it shall determine if the same was wilful; if it finds that such violation was not wilful, it may call upon said road to satisfy the damage done to the complainant thereby, stating the amount of such damage, and to pay the cost of such investigation; and if the said railroad shall do so within the time specified by commission there shall be no prosecution by the state; but if said railroad shall not pay said damage and cost within the time specified by commission or if commission find such violation to be wilful, it shall institute proceedings to recover the penalty for such violation and the cost of such investigation. All such complaints shall be made in the name of the state upon the relation of such complainant. *Sayles' Civ. Stats. 1897, art. 4568.*

All evidence taken before said commission in the investigation of any such complaint, when reduced to writing and signed and sworn to by the witness, may be used by either party—the state, complainant, or the railroad company—in any proceeding against such railroad involving the same subject matter; provided, further, that the commissioners may require the testimony so taken before them to be reduced to writing when they may deem it necessary, or when requested to do so by either party to such proceedings, and a certified copy, under the hand and seal of said commission, shall be admissible in evidence upon the trial of any cause or proceeding growing out of the same transaction against such railroad, involving the same subject matter and between the same parties. The provisions of this section shall not abridge or affect the right of any person to sue for any penalty that may be due him under the provisions of this chapter or any other law of this state. *Same.*

VERMONT

A person or corporation that claims to be injured by the unlawful action or neglect of those in the operation or management of a railroad in a matter over which commission is given jurisdiction may commence proceedings thereon by

petition to commission, therein setting forth briefly his cause of complaint; or the state's attorney of the county in which the matter arises, or any ten freeholders of such county, may, by such complaint, bring before commission any such matter wherein and whereby they claim the public safety is endangered or the charter or the statute law regulating railroads is being violated. Commission, when it has information that those operating any
5702 railroad are doing so in violation of its charter or of the statute law, shall call the same to the attention of the attorney general, or the state's attorney of the county where the matter arises. The attorney general or the state's attorney shall inquire into the same; and, if in his judgment the matter should be investigated, he shall bring the same before commission by proper complaint. On receipt of such complaint, commission shall summon the person or persons complained of to appear before it and to make answer thereto. If issue is taken to the facts set out in the complaint, commission shall appoint a time and place for hearing the same in the county where the matter arises, and shall then and there hear and determine the matter complained of. *Pub. Stats. 1906, sec. 4610.*

Complaints concerning any claimed unlawful action or neglect of those in the operation or management of any plant, property or line subject to supervision under the provisions of this act, may be made or commenced by the person or corporation that claims to be injured or by the attorney general or by the
5703 state's attorney of the county or by ten or more freeholders; and any such person or corporation so claiming to be injured may file his complaint relating thereto with the attorney general who shall thereupon in person or through the state's attorney of the county investigate such complaint and if sufficient cause exists shall prosecute the same in the name of the state. *Laws 1908, no. 116, sec. 8.*

WASHINGTON Complaint may be made by commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of commission; provided, that no complaint shall be entertained by commission, except upon its

own motion, as to the reasonableness of the schedule of rates or charges of any gas, electrical, water, or telephone company, unless
3704 the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than 25 consumers or purchasers of such gas, electricity, water or telephone service. All matters upon which complaint may be founded may be joined in one hearing and no motion, shall be entertained against a complaint for misjoinder of complaints or grievances of misjoinder of parties; and in any review of the courts of orders of commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided; provided, all grievances to be inquired into, shall be plainly set forth in the complaint. No complaint shall be dismissed because of the absence of direct damage to the complainant. *Laws 1911, ch. 117, sec. 80.*

Upon the filing of a complaint, commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice fixing the time when
3705 and place where a hearing will be had upon such complaint. The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. Rules of practice and procedure not otherwise provided for in this act may be prescribed by commission. *Same.*

WISCONSIN

In case of a failure or refusal of any railroad to comply with any of the provisions of this act, the person or persons, firm, corporation or association aggrieved thereby may file a complaint with commission setting forth the facts, and commission shall investigate and determine the matter in controversy,
3706 in accordance with the provisions of chapter 362 of the laws of 1905 and of this act, and any order it shall make in said proceeding shall have the same force and effect as an order in any other proceeding properly begun under and by virtue of the provisions of said chapter 362 of the laws of 1905. *Laws 1907, ch. 352, sec. 1797-12n.*

Any public utility may make complaint as to any matter affecting its own product or service with like effect as though
3707 made by any mercantile, agricultural or manufacturing society, body politic or municipal organization or by any 25 persons, firms, corporations or associations. *Laws 1907, ch. 499, sec. 1797m-52.*

2. Hearings.¹

UNITED STATES Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Any party may appear before commission and be heard in person or by attorney. Every vote and official act of commission shall be entered of record and its proceedings shall be public upon the request of either party interested. *Act to Regulate Commerce, sec. 17.*

ARIZONA The act of a majority of commission when in session as a board shall be deemed to be the act of commission; but any investigation, inquiry or hearing which commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by commission, and every finding, order or decision made by a commissioner so designated, pursuant to such investigation, inquiry or hearing, when approved and confirmed by commission and

- ¹ **General and Other Sessions.** Commission shall hold regular meetings at its principal office and at such other times and places as may be necessary to facilitate the proper discharge of its duties and to promote the convenience of the public and of the parties litigant.
- UNITED STATES—***Act to Regulate Commerce, sec. 19; ALABAMA—Code 1907, sec. 5642; ARIZONA—Sess. Laws 1912, ch. 90, sec. 8(a); ARKANSAS—Kirby's Digest 1904, sec. 6801; CALIFORNIA—Stats. 1911, 1st. ex. sess., ch. 14, sec. 8(a); FLORIDA—Gen. Stats. 1906, sec. 2887; INDIANA—Acts 1907, ch. 241, sec. 2(b); KANSAS—Gen. Stats. 1909, sec. 7183; LOUISIANA—Const., art. 283; MARYLAND—Laws 1910, ch. 180, sec. 4; MICHIGAN—Pub. Acts 1909, no. 300, sec. 2(k); MINNESOTA—Rev. Laws 1903, sec. 1061; MISSISSIPPI—Code 1906, sec. 4829; MONTANA—Rev. Codes 1907, sec. 4365; NEBRASKA—Cobbe's Annot. Stats. 1909, sec. 10650(a); NEVADA—Stats. 1907, ch. 44, sec. 1(k), as amended by Stats. 1911, ch. 193; NEW JERSEY—Laws 1911, ch. 193, sec. 10; NEW YORK—Laws 1910, ch. 480, sec. 11; NORTH CAROLINA—Pell's Revision 1908, sec. 1060; NORTH DAKOTA—Laws 1909, ch. 104, sec. 1; OHIO—Code 1910, sec. 498; OREGON—Gen. Laws 1907, ch. 53, sec. 8; PENNSYLVANIA—Laws 1907, no. 250, sec. 3; RHODE ISLAND—Acts 1912, ch. 795, sec. 8; SOUTH DAKOTA—Rev. Pol. Code 1903, sec. 191; TENNESSEE—Acts 1897, ch. 10, sec. 7; TEXAS—Sayles' Civ. Stats. 1897, art. 4561(5); VERMONT—Pub. Stats. 1906, sec. 4506, as amended by Acts 1910, ch. 135; WASHINGTON—Laws 1911, ch. 117, sec. 7; WISCONSIN—Laws 1903, ch. 362, sec. 1707-1(k).*
- Time of Holding Meetings.** **ALABAMA**—Commission shall meet on first Monday of every month and until all business is disposed of. *Code 1907, sec. 5642.* **ARIZONA**—Commission shall hold its sessions at least once in each calendar month. *Sess. Laws 1912, ch. 90, sec. 8(a).* **CALIFORNIA**—Commission shall hold its sessions at least once in each calendar month. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 8(a).* **MARYLAND**—Commission shall hold stated meetings at least once a week during the year. *Laws 1910, ch. 180, sec. 4.* **MISSISSIPPI**—Commission shall meet on the first and third Mondays of each month and may sit from day to day and from time to time, but any meeting may be pretermitted not exceeding four in any year. *Code, 1906, sec. 4829.* **MONTANA**—Commission shall hold sessions at least once each month. *Rev. Codes 1907, sec. 4365.* **NEW YORK**—Each commission shall hold stated meetings at least once a month during the year. *Laws 1910, ch. 480, sec. 10(1).* **NORTH DAKOTA**—Commission shall hold five sessions annually, each for not less than three days and beginning at nine a.m. *Laws 1909, ch. 104, sec. 1.* **RHODE ISLAND**—Commission shall hold meetings at least once a month. *Acts 1912, ch. 795, sec. 7.* **SOUTH DAKOTA**—Commission shall hold meetings at least once a month. *Rev. Pol. Code 1903, sec. 191.*
- Sessions Public.** Sessions of commission shall be public. **ARIZONA**—*Sess. Laws 1912, ch. 90, sec. 8(a); CALIFORNIA—Stats. 1911, 1st. ex. sess., ch. 14, sec. 8(a); MONTANA—Rev. Codes 1907, sec. 4365; VIRGINIA—Const., sec. 155.*
- Manner of Calling Special Meetings.** **NORTH DAKOTA**—Governor may call special meeting whenever it appears that public interest demands it by giving ten days' previous notice thereof, by advertisement published in a newspaper at the place where meeting is to be held. *Laws 1909, ch. 104, sec. 2.* **VERMONT**—Meeting may be held upon the call of any member after reasonable notice by mail or by telegraph to the other commissioners. *Pub. Stats. 1906, sec. 4506, as amended by Acts 1910, ch. 135.*

ordered filed in its office, shall be and be deemed to be the finding, order or decision of commission. *Sess. Laws 1912, ch. 90, sec. 9.*

3714 All hearings and investigations before commission or any commissioner shall be governed by this act and by rules of practice and procedure to be adopted by commission and in the conduct thereof neither the commission nor any commissioner shall be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony before commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by commission. *Same, sec. 53.*

At the time fixed for any hearing before commission or a commissioner, or the time to which the same may have been continued, the complainant and the corporation or persons complained of, and such corporations or persons as commission may allow to intervene, shall be entitled to be heard and to introduce evidence. Commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the hearing commission shall make and file its order, containing its decision. A copy of such order, certified under the seal of commission, shall be served upon the corporation or person complained of, or 3715 his or its attorney. Said order shall, of its own force, take effect and become operative 20 days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by commission. If an order cannot in the judgment of commission be complied with within 20 days, commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown extend the time for compliance fixed in its order. A full and complete record of all proceedings had before commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by commission, and the parties shall be entitled to be heard in person or by attorney. *Same, sec. 61(a).*

Any investigation, hearing or examination undertaken, commenced, instituted or prosecuted prior to the taking effect of this act may be continued and conducted to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, instituted or prosecuted in accordance with 3716 the provisions of this act. All proceedings hitherto taken by commission in any such investigation, hearing or examination are

hereby ratified, approved, validated and confirmed, and all such proceedings shall have the same force and effect as if they had been undertaken, commenced, instituted and prosecuted under the provisions of this act and in the manner herein prescribed. *Same, sec. 82.*

See also pars. 611, 612, 3674.

CALIFORNIA Provisions identical with pars. 3713, 3714, 3717 3715, 3716. *Stats. 1911, 1st. ex. sess., ch. 14, secs. 9, 53, 61(a), 83(a).*

In case of an action to review any order or decision of commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by commission on its own initiative and considered by it in rendering its order or decision, and of the pleadings, record and proceedings in the cause, shall constitute the record of commission; provided, that on review of an order or decision of commission, the petitioner and commission may stipulate that a certain question or questions alone and a specified portion only of the evidence shall be certified to the supreme court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on review. *Same, sec. 61(a).*

See also pars. 620, 3676.

CONNECTICUT Commission may, in its discretion, delegate its powers, in specific cases, to one or more of its members to ascertain the facts and report thereon to commission. *Pub. Acts 1911, ch. 128, sec. 9.*

FLORIDA Commission is hereby authorized in its discretion to appoint any one of its number to make investigations or examinations outside of its office anywhere in this state and such member in making such investigation or examination is hereby invested with the same power as the full board would have. The commissioner so appointed shall report to a full board the result of his investigations. *Gen. Stats. 1906, sec. 2917.*

GEORGIA, ILLINOIS

In all cases under the provisions of this article the rules of evidence shall be the same as in civil actions except as hereinbefore otherwise provided. *Ga.—Code 1911, sec. 2641; Ill.—Revisal 1909, ch. 114, sec. 132.*

INDIANA

On the order of commission any one of its members may conduct a hearing or investigation and take the
3722 evidence therein, and report the same to commission for its consideration and action. *Acts 1907, ch. 241, sec. 2(a).*

IOWA

Substantially identical with par. 3712. *Code*
3723 1897, sec. 2142.

KANSAS

Any public investigation or hearing which commission shall have power to make or to hold may be made or held before any one or more commissioners, and all investigations,
3724 hearings, decisions, and orders made by a commissioner shall be deemed and held to be the investigations, hearings, decisions and orders of commission, when approved and filed by such commission and filed in their office.¹ *Laws 1911, ch. 238, sec. 14.*

Whenever notice shall be required by the provisions of this act to be given any common carrier or public utility and the complainant, or either of them, 30 days' written or printed notice of the time and place when and where such investigation or hearing will be had shall be given, such notice to be served by mailing a copy thereof to the public utility or common carrier and complainant. Such notice shall embody in substance the complaint, if any, made against the public utility or common carrier upon which the hearing, investigation and decision of commission is
3725 requested or on which it will be given. The public utility or common carrier, or the complainant or complainants, if any, shall be entitled to be heard, and shall have process to enforce the attendance of witnesses and the production of books, papers, maps, contracts, reports and records of every description affecting the subject matter of the investigation. Commission may, without præcipe or demand therefor, require the production of any books, papers, contracts, records or other documents in the possession of or under the control of the common carrier, public utility, complainant or complainants, affecting the subject matter of the controversy. *Same, sec. 15.*

See also par. 3682.

LOUISIANA

In all cases where witnesses are required to attend the session of commission they shall be notified by a summons issued and signed by the secretary of commission, and bearing
3726 the seal of same, and mailed to them, or which shall be served upon them when deemed necessary, by the sheriff of the parish

¹ Commission is authorized to tax all costs of hearings to parties or the state, as in its judgment shall be just. *Gen. Stats. 1909, sec. 7175.*

where they reside or where they may be found, the same as in case of service of a notice to a witness in a civil proceeding as prescribed by existing laws. *Stats. 1900, no. 16, sec. 1.*

3727 Attachments for witness and all other process of orders issued by commission shall be issued and signed by secretary of commission and shall bear the seal of commission, and shall be executed and enforced by the sheriffs of this state in the same manner as in civil proceedings before the courts of this state. *Same, sec. 2.*

3728 It shall be lawful for commission to fine and commit to the parish prison of the parish where commission may be in session at the time, any witness or other person adjudged to be in contempt of the authority of commission, the same as in cases of contempt before the district courts of this state. *Same, sec. 3.*

3729 In all cases where any sheriff whose duty it is hereby made to serve or execute any notice, order, or process of any kind, issued by commission, shall fail, neglect or refuse to serve or execute the same, then and in that case commission shall have the right to select another sheriff to serve and execute its notices, orders and process. *Same, sec. 4.*

3730 Any sheriff who shall fail, neglect, or refuse to execute the notices, orders, or process of commission, shall be subject to the same penalties for such neglect, failure, or refusal as are prescribed in the service and execution of similar process in civil cases. *Same, sec. 5.*

3731 The sheriffs throughout the state shall receive for their services aforesaid the same compensation as in the service or execution of notices, orders, or process of a similar nature in civil cases, the same to be paid out of the amount appropriated for the expenses of commission by the general assembly. *Same, sec. 6.*

MARYLAND

Any investigation, inquiry or hearing which commission has power to undertake or hold, may be undertaken or held by or before any one of commissioners, upon condition, however, that such commissioner shall have first been authorized by commission to undertake to hold such investigation, inquiry or hearing; and all investigations, inquiries or hearings of or by a commissioner shall be and be deemed to be the investigations, 3732 inquiries and hearings of commission; provided, however, that each and all decisions of a commissioner upon any such investigation, inquiry or hearing undertaken and held by him shall not become and be effective until approved and confirmed by commission itself, and ordered by commission to be filed in its office;

and upon such confirmation and order by commission, such decision shall be and be deemed to be the decision and order of the commission. *Laws 1910, ch. 180, sec. 4.*

3723 Nothing herein contained shall be construed to prevent any party or interest in any proceeding before commission from appearing in person or from being represented by counsel. *Same, sec. 6, as amended by Laws 1912, ch. 563.*

3724 All subpoenas shall be signed and issued by the commissioners or by the secretary of commission, and may be served by any persons of full age. *Same, sec. 9.*

3725 All hearings before commission or commissioner shall be governed by rules to be adopted and prescribed by commission. And in all investigations, inquiries or hearings commission, or a commissioner, shall not be bound by the technical rules of evidence. *Same, sec. 10.*

MASSACHUSETTS Any investigation, inquiry or hearing which railroad commission has power to undertake or hold may be undertaken or held by or before any commissioner, and decisions of commission and every order made by a commissioner, when approved and confirmed by commission and ordered filed in its office, shall be and be deemed to be the order of commission. *Acts 1911, ch. 755, sec. 6.*

MICHIGAN Any investigation, inquiry or hearing which commission has power to undertake or to hold may be undertaken or held by or before any commissioner when so directed by commission or its chairman. All such investigations, inquiries or hearings of a commissioner shall be and be deemed to be the investigations, inquiries and hearings of commission, and every decision and order made by a commissioner, when approved and confirmed by commission and ordered filed in its office, shall be and be deemed to be the decision and order of commission; provided, that any interested party shall be entitled to a rehearing before the full commission on request served upon commission within five days after service of such order upon such party. In the absence of a quorum of commission at the time appointed for any hearing before commission, such hearing may be continued to a later date by a single member of commission present or, in the absence of any member, by the secretary. *Pub. Acts 1909, no. 300, sec. 2(f).*

See also par. 803.

MINNESOTA

No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. *Rev. Laws 1905, sec. 1955.*

Commission may by one or more of the commissioners prosecute any inquiry necessary to its duties in any part of the state. *Same, sec. 1961.*

Every vote and official act of commission shall be entered of record and in its discretion, or upon request of any party interested, its proceedings shall be public. *Same.*

If the matter be not adjusted to the satisfaction of commission, it shall set a time and place of hearing, and give at least ten days' notice thereof to each party. The parties may appear either in person or by attorney. Commission shall hear evidence and otherwise investigate the matter, and shall make findings of fact upon all matters involved, and such order or recommendation in the premises as may be just. A copy of such findings and order or recommendation shall forthwith be served upon each party. No proceeding shall be dismissed on account of want of pecuniary interest in the complainant. In all proceedings excepting where the reasonableness of rates are under consideration, hearings may be had before one commissioner, who shall decide the matter in controversy and make a report of his decision to commission. Upon the approval of such report, it shall become the decision of commission. *Same, sec. 1966.*

All notices and orders in proceedings before commission shall be signed by the secretary. Service may be made of all notices, orders, and other papers provided for in this chapter by mail upon any person or firm, or upon the president, general manager, or other proper executive officer of any corporation interested. If any party has appeared by attorney, such service shall be made upon such attorney. *Same, sec. 1967.*

MISSISSIPPI

All notices given or required to be given to or served upon a railroad or other common carrier of passengers, freight, or intelligence, shall be sufficiently served and executed upon any railroad or other common carrier, or to a chief or other officer of the railroad or other carrier at its principal place of business in this state, if any there be, and, if not, so deposited and addressed in the care of an officer, agent or employe of the railroad or other carrier at an office or place of business in this state of the railroad or other carrier; or it may be served upon any such officer, agent, or employe, wherever found, by an officer,

and due return thereof made, as if it were the process of a court. In all cases where notice is given or required to be given, and where the time of notice is not specified, five days' notice shall be sufficient. *Code 1906, sec. 4834.*

See also par. 806.

MISSOURI

Where complaint is made as herein provided, and commission is satisfied that if true it contains a substantial charge that some one or more of the provisions of this article have been violated or are being violated, it may proceed informally, by letter or otherwise, to investigate and settle the matter complained of with the common carrier of whom complaint is made, or it may proceed to make a preliminary investigation as to the truth of the charge; if satisfied that there is sufficient ground for complaint, and that the matters complained of cannot be adjusted without a formal hearing, it shall fix a day for such hearing and notify both parties, which notice shall be in writing, either by letter or some other form, such as commission may deem sufficient. At such hearing both parties shall have full opportunities to be heard. Commission shall have the power to adopt all necessary rules and regulations as to methods of proceedings, including the making up of issues, taking testimony, preserving the same, hearing arguments, making orders and awards, granting continuances and rehearings, and all such other matters as may be necessary to a full and final disposition of the complaint. If upon investigation had by commission under the provisions of sections 3179 to 3207 commission shall find from the testimony of witnesses or other evidence that anything has been done or omitted to be done by any such common carrier in violation of the provisions of this article or of any law of this state cognizable by commission, or that any common carrier proposed to do or omits to be done anything in violation of the provisions of said sections, it shall be the duty of commission forthwith to cause a copy of its finding in respect thereto to be delivered to such common carrier, with a notice to such common carrier to cease or desist from such violation within a reasonable time to be specified by commission. *Rev. Stats. 1909, sec. 3197.*

MONTANA

No commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. *Rev. Codes 1907, sec. 4363.*

NEBRASKA

See par. 3690.

NEVADA

Whenever a complaint is made to commission of a violation of any of the provisions of this act, or of any order of commission, it shall, within four months, commence an investigation of said charge, and shall determine the same within six months, unless the person preferring such charges shall agree in writing to a longer time. A failure to comply with this provision shall *ipso facto* render the office of each of the commissioners vacant, and the railroad board shall appoint new commissioners as provided by this act. *Stats. 1907, ch. 44, sec. 1(d), as amended by Stats. 1911, ch. 193.*

NEW HAMPSHIRE No commissioner shall sit upon the hearing of any question which commission is to decide in a judicial capacity who would be disqualified for any cause, except exemption from service, to act as a juror upon the trial of the same question between the same parties in an action at law. This shall not be construed to apply to inquests in accident cases. *Laws 1911, ch. 164, sec. 2(h).*

If a commissioner shall be disqualified or unable to act in any particular case pending before commission the governor upon application of commission shall, with the consent of the counsel, appoint a commissioner to act in his place upon said case. Commissioner so appointed shall be paid a reasonable compensation per day for his services, and his necessary expenses, to be allowed by the governor and counsel and paid from the state treasury. *Same, sec. 2(i).*

NEW JERSEY The commissioners are hereby empowered to sit singly for the purpose of taking testimony in any proceeding. A majority vote of commission shall be necessary to the making of any order. *Laws 1911, ch. 195, sec. 13.*

All hearings and investigations before commission or any member thereof shall be governed by rules adopted by commission, and in the conduct thereof neither commission nor such member shall be bound by the technical rules of legal evidence. *Same, sec. 26.*

NEW MEXICO No commissioner shall be qualified to act upon any matter pending before commission in which he is interested, either as principal, agent or attorney. *Const., art. xi., sec. 3.*

Every railway, express, telegraph, telephone, sleeping car or transportation or transmission corporation shall designate, by written statement filed with commission, an agent in the city of

Santa Fé, upon whom notice may be served of any hearing or motion in any proceeding before, or of any order made by commission, which statement shall give the street number or building where such agent has his office. Notice of any hearing, stating the time and place thereof, shall be served upon the corporation complained of by delivering a copy thereof, accompanied by a copy of the petition to the designated agent of such corporation in the city of Santa Fé, or by leaving the same with some person over eighteen years of age at the office of such agent. If such corporation shall have no designated agent in the city of Santa Fé as required by this act, such notice may be served by posting the same in the office of commission. Notice of hearing shall be
3752 served upon any party to a proceeding not required by law to have a designated agent in the city of Santa Fé by delivering a copy of such notice to such party or statutory agent in New Mexico or by registered mail directed to such statutory agent or party, deposited in a post paid wrapper at the post office in the city of Santa Fé. When service is made by mail, at least 15 days' notice shall be given, and the time shall begin to run when the notice is deposited in the post office. Notice of the making of any order shall be given within five days after the making thereof. When any party has appeared by attorney service upon such attorney shall be deemed sufficient service upon the party. Proof of service of any notice or process issued by commission shall be by certificate endorsed thereon if the same be served by a clerk of commission, or by affidavit of any other person appointed by commission to serve such notice or process, accompanied by the return card if service is made by registered mail. *Laws 1912, ch. 78, sec. 3.*

At the time and place set for hearing, the parties interested may be heard either in person or by counsel and may introduce evidence. Commission shall, upon application and proper showing
3753 by either party, allow such reasonable time as may be necessary for the production of evidence and may adjourn or continue the hearing from time to time as may be deemed necessary or proper for the accommodation of the parties and the furtherance of justice. *Same, sec. 4.*

Hearings may be held at the city of Santa Fé or any other place in the state designated by commission and commission may
3754 use any court room in the state for hearings at any time when said hearing does not interfere with the business of the court. *Same.*

The parties to any proceeding may, by stipulation in writing,
3755 file with the clerk of commission an agreement upon the facts or
any portion thereof, which stipulation shall be regarded and used
as evidence upon the hearing. *Same.*

All matters upon which a grievance may be founded may be
joined in one hearing and no petition shall be dismissed on account
of misjoinder of grievances or parties or because of the absence
of direct damage to a petitioner. At the conclusion of the hear-
ing commission shall make its findings concerning the subject
matter and facts inquired into and make and enter an order of
3756 its determination and decision based on such findings. Said
order shall specify the time limit for compliance therewith, which
time may, on application and for good cause shown, be extended
by commission in its discretion. Every order shall be signed by
at least two commissioners and attested by the clerk with the
seal of commission thereto affixed. A copy of such order certified
by the clerk under the seal of commission shall be served upon
each of the parties to the proceeding *Same.*

Commission may, however, by writing under its seal, author-
3757 ize any commissioner, its clerk or other person, to investigate and
take testimony as to any matter pending before it. *Same, sec. 5.*

The concurrence of at least two commissioners shall be
3758 required to make any order or determine any matter before
commission. *Same.*

Upon application of any party amendments to any petition
3759 or paper filed in any proceeding or investigation may be allowed
by commission or the supreme court in its discretion. *Same,*
sec. 14.

NEW YORK Any investigation, inquiry or hearing which
either commission has power to undertake or to hold may be
undertaken or held by or before any commissioner. All investi-
gations, inquiries, hearings and decisions of a commissioner shall
3760 be and be deemed to be the investigations, inquiries, hearings and
decisions of commission and every order made by a commissioner,
when approved and confirmed by commission and ordered filed
in its office, shall be and be deemed to be the order of commission.
Laws 1910, ch. 480, sec. 11.

3761 Also a provision identical with par. 3735. *Same, sec. 20.*

Whenever the case shall relate to a joint rate, fare or charge,
or a through route composed of a street railroad wholly in the
second district and a street railroad wholly in the first district, or

partly in the first and 'partly in the second district, the proceeding shall be deemed pending before both commissions. In such case and in every other case arising under this chapter wherein it appears to both commissions that separate jurisdiction has not
3763 been conferred, a joint hearing shall be fixed and had by members of both commissions, and the determination shall be by joint order, which shall be effective when concurred in by not less than three members of each commission, anything in this chapter to the contrary notwithstanding. In any such case the proceeding may be instituted by or before either commission and the entry and service of preliminary orders may be by such commission. *Same, sec. 49(5).*

NORTH CAROLINA In all cases under the provisions of this chapter the rules of evidence shall be the same as in civil actions,
3763 except as provided by this chapter. *Pell's Revisal 1908, sec. 1069.*

All subpoenas for witnesses to appear before commission or before any one or more of the commissioners, and notice to persons or corporations, shall be issued by one of the commissioners
3764 or its clerks and be directed to any sheriff, constable or to the marshal of any city or town, who shall execute the same and make due return thereof as directed therein under the penalties prescribed by law for a failure to execute and return the process of any court. *Same, sec. 1070.*

The clerk of commission may serve any notice issued by it and his return thereof shall be evidence of said service; and it shall be the duty of the sheriffs and other officers to serve any
3765 process, subpoenas and notices issued by commission, and they shall be entitled therefor to the same fees as are prescribed by law for serving similar papers issuing from the superior court. *Same, sec. 1071.*

NORTH DAKOTA Commission may in all cases conduct its proceedings when not otherwise particularly prescribed by law in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall partici-
3766 pate in any hearing or proceeding in which he has any direct, personal, pecuniary interest. Any party may appear before commission and be heard in person or by attorney. Every vote and official action of commission shall be entered of record and its proceedings shall be public upon the request of either party or any person interested. *Rev. Codes 1905, sec. 4362.*

OHIO

All fees, expenses and costs of or in connection with any hearing or investigation may be imposed by commission upon any party to the record or may be divided between any or all parties to the record in such proportion as commission may determine. *Laws 1911, no. 325, sec. 82.*

OKLAHOMA

At any time a cause is set for hearing and a quorum of commission should not be present at the time set for said hearing, any member thereof may adjourn the hearing to some future time or said commissioner present may proceed to take the testimony, which shall be transcribed and submitted to commission before consideration thereof; said testimony so taken shall be submitted to commissioner taking the same. *Sess. Laws 1908, ch. 18, art. iii, sec. 9.*

OREGON

Any person may appear before commission and be heard, or may appear by attorney. *Gen. Laws 1907, ch. 53, sec. 9.*

PENNSYLVANIA

Identical with par. 3712. *Laws 1907, no. 250, sec. 5.*

All examinations or investigations made by commission may be held and taken by and before any of the commissioners, by order of commission, and the proceedings, recommendations and decisions of such single commissioner shall be deemed to be the proceedings, recommendations and decisions of commission, when approved and confirmed by it. *Same.*

If the examination of the books and affairs of a common carrier, or of witnesses in its employ, shall be necessary in the course of any hearing on complaint, or examination or investigation into its affairs, commission, or a member thereof designated by it, shall sit for such purpose, in the city or town of this state where the principal business office of such common carrier is situated, if requested so to do by the common carrier; but commission may require copies of books and papers, or abstracts thereof, to be sent to it to any part of the state. *Same, sec. 13.*

All subpoenas shall be issued by the secretary when directed by commission or by any two members thereof, and may be served by any person, of full age, authorized by commission to serve the same. *Same, sec. 20.*

RHODE ISLAND

All hearings and orders of commission and its record thereof shall be public. *Acts 1912, ch. 795, sec. 9.*

For the purpose of making any investigation in relation to any public utility commission shall have the power to appoint

one or more of the agents of commission to make such investigation and report thereon to commission. *Same, sec. 13.*

5776 All hearings, investigations and inquiries before commission shall be governed by rules to be adopted and prescribed by commission, and in such hearings and investigations and inquiries commission shall not be bound by the technical rules of evidence. *Same, sec. 17.*

5777 Whenever commission shall believe that any of the rates, tolls, charges, or any joint rate or rates, charged, demanded, exacted or collected by any public utility are in any respect unreasonable, or unjustly discriminatory or otherwise in violation of this act; or that any regulation, measurement, practice or act whatsoever of such public utility, affecting or relating to the conveyance of persons or property, or any service in connection therewith, or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power, or any service in connection therewith, or the conveyance of telephone or telegraph messages, or any service in connection therewith, is in any respect unreasonable, insufficient, or unjustly discriminatory; or that any service of such public utility is inadequate or cannot be obtained or is unsafe, or the public safety is endangered thereby, or that an investigation of any matter relating to a public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. *Same, sec. 26.*

5778 If, after making such summary investigation, commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters so investigated, it shall furnish such public utility interested a statement notifying the public utility of the matters under investigation. Ten days after such notice has been given commission may proceed to set a time and place for a hearing and investigation. *Same, sec. 27.*

5779 Notice of the time and place for such hearing and investigation shall be given to the public utility and to such other interested persons as commission shall deem necessary, as provided in section 20 hereof, and thereafter the proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with commission relative to the matter investigated, and the same order or orders may be made in reference thereto, as if such hearing and investigation has been made on complaint. *Same, sec. 28.*

See also par. 2405.

SOUTH DAKOTA Substantially identical with par. 3712. *Rev. 3780 Pol. Code 1903, sec. 192.*

TENNESSEE No person desiring to be present at any investigation by commission shall be denied admission. *Acts 1897, ch. 10, sec. 8(1), as amended by Acts 1907, ch. 390, sec. 2.*

VERMONT One commissioner may inquire into and examine any matter within the jurisdiction of commission to inquire into; and may, with the consent in writing of the person interested, filed with commissioner, hold any hearing in any matter within the jurisdiction of commission to hear, except hearings on rates, tariffs, tolls, land damages, grade crossing eliminations, **3782** the location of depots or stations, also except hearings as to the sufficiency and reasonableness of the facilities and accommodations furnished by railroad corporations, and forthwith report his findings of facts in writing to each of the other commissioners; but judgment on said commissioner's findings shall only be rendered by a majority of commission. *Pub. Stats. 1906, sec. 4596, as amended by Acts 1910, ch. 155.*

All original processes or notices issued by commission shall **3783** state the time and place of return. *Same.*

All summons issued by commission for any party to appear **3784** and answer an original petition or complaint pending before commission shall be served as writs of summons and at least 12 days before the return day thereof. *Same, sec. 4611.*

Proceedings under the preceding section may be commenced by the initial act of commission, by petition of the attorney general, by petition of the state's attorney of the county, by petition of ten or more freeholders of the state, or in such way as **3785** the law may otherwise specifically provide. *Same, sec. 4612.*

See also par. 3702.

WASHINGTON Any investigation, inquiry or hearing which commission has power to undertake or to hold may be undertaken or held by or before any commissioner. All investigations, inquiries and hearings of a commissioner shall be and be deemed to **3786** be the investigations, inquiries and hearings of commission, and all findings, orders or decisions made by a commissioner, when approved and confirmed by commission and filed in its office, shall be and be deemed to be the findings, orders or decisions of commission. *Laws 1911, ch. 117, sec. 7.*

At the time fixed for the hearing mentioned in the preceding section, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or it may desire. Commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of commission, shall be served upon the person or corporation complained of, or his or its attorney which order shall, of its own force, take effect and become operative 20 days after the service thereof, except as otherwise provided. Where
3787 an order cannot, in the judgment of commission, be complied with within 20 days, commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order of commission a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of commission. *Same, sec. 81.*

See also pars. 699, 700, 3705.

WISCONSIN

Whenever commission shall believe that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate or cannot be obtained or that an
3788 investigation of any matter relating to any public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. *Laws 1907, ch. 499, sec. 1797m-49.*

Also provisions identical with pars. 3778, 3779. *Same, secs.*
3789 *1797m-50, 1797m-51.*

Whenever commission is required to issue notices of investigations, notices of hearing or to certify to copies of the records
3790 of commission, such notices of certification may be issued by any member of commission or by the secretary of commission. *Laws 1909, ch. 248, sec. 1797m-109.*

See also par. 2415.

3. Orders.

UNITED STATES Every order of commission shall be forthwith served upon the designated agent of the carrier in the city of
3791 Washington, or in such other manner as may be provided by law. *Act to Regulate Commerce, sec. 16.*

ARIZONA In all collateral actions or proceedings, the
3792 orders and decisions of commission which have become final shall be conclusive. *Sess. Laws 1912, ch. 90, sec. 65.*

All orders, rules, decisions or regulations heretofore made, issued or promulgated by commission shall continue in force until
3793 the further order of commission, and have the same effect as though they had been made, issued or promulgated under the provisions of this act. *Same, sec. 83.*

See also par. 3715.

ARKANSAS Commission shall file a copy of its findings and decrees with the secretary of state, the attorney general, the circuit clerk of the county wherein such decree is granted, and shall
3794 serve notice upon the defendant railroad company by delivering a copy of its findings and decrees to the nearest local station agent and by sending by registered mail a copy to the superintendent, general manager, lessee or operator of said railroad or railroad company. *Acts 1907, no. 149, sec. 3.*

CALIFORNIA Substantially identical with pars. 3792, 3793.
3795 *Stats. 1911, 1st. ex. sess., ch. 14, secs. 65, 83(c).*

See also par. 3717.

COLORADO If, after hearing on an original complaint as provided by this act, commission shall determine that any party complainant petitioning therefore is entitled to an award of damages under the provisions of this act for violation thereof, commission shall make an order, directing the common carrier to pay to the complainant the sum to which it is entitled on or before a day named. *Laws 1910, sp. sess., ch. 5, sec. 16.*

CONNECTICUT All decisions, orders and authorizations of commission shall be in writing and shall specify the reasons therefor, shall be filed and kept in office of commission and recorded in a book kept by it for that purpose, and shall be public documents. Commission may at any time, for due cause shown, upon hearing

3797 had after due notice to all parties in interest, rescind, reverse or alter any decision, order or authorization by it made. Written notice of all orders, decisions or authorizations issued by commission shall be given to the company or person affected thereby, by personal service upon such company or person, or by registered mail, as commission shall determine. *Pub. Acts 1911, ch. 128, sec. 10.*

INDIANA

In addition to power and authority given to commission to enforce this act and the other laws of this state, as provided in this section, commission, as additional remedy, may upon complaint filed by any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or **3798** any body politic or municipal organization, and after a hearing thereon, enter an order requiring any such carrier to comply with the duties, obligations and requirements of this act and all other laws of the state concerning the duties, obligations and requirements of such carriers, in performance of their duties to the public as common carriers. *Acts 1907, ch. 241, sec. 7(b), as amended by Acts 1911, ch. 185, sec. 1.*

IOWA

Whenever an investigation is made by commission after notice it shall make a report in writing stating its conclusions which shall include the findings of fact upon which the conclusions are based together with its recommendations or orders as to what reparation if any shall be made by the carrier **3799** to any party who may be found to have been injured, and such finding shall thereafter in all judicial proceedings be prima facie evidence of every fact found. All reports of investigation made by commission shall be entered of record and a copy furnished to the party who complained and any other person directly interested and to any carrier who may have been complained of. *Code 1897, sec. 2135.*

If in any case in which an investigation shall be made by commission it shall be made to appear to the satisfaction of such commission, either by the testimony of witnesses or other competent evidence, that any thing has been done or permitted to be done, in violation of the provisions of this chapter, or of any law cognizable by commission, by any common carrier, or that any injury or damage has been sustained by the party complaining, or by other parties, in consequence of any such violation, it shall be the duty of commission forthwith to cause a copy of its report in respect thereto to be delivered to such car-

rier, together with a notice to it to cease from such violation or to make reparation for the injury found to have been done, or both, within a reasonable time, to be fixed by commission. And if within the time fixed it shall be made to appear to commission that such carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of commission or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission, and the carrier shall thereupon be relieved from further liability or penalty for such particular violation of law. *Same, sec. 2136.*

MARYLAND

Every order of commission shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, or by mailing a certified copy thereof in a sealed package, with postage prepaid, to the person to be affected thereby, or in the case of a corporation, to any officer or agent thereof, upon whom summons may be served under the laws of the state. Every person and corporation shall notify commission forthwith in writing of the receipt of the certified copy of every order so served, and in the case of a corporation, such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of commission, every person and corporation upon whom it is served must, if so required in the order, notify commission in like manner whether the terms of the order are accepted and will be obeyed. *Laws 1910, ch. 180, sec. 11.*

Every order of commission shall take effect at a time therein specified and shall continue in force for a period therein designated, unless earlier modified or abrogated by commission or unless such order be unauthorized by this act or be in violation of a provision of the constitution of the state or of the United States. *Same.*

MASSACHUSETTS

Every order of railroad commission shall continue in force unless the same shall be limited, suspended, modified or set aside by commission or shall be suspended or set aside by any court of competent jurisdiction. *Acts 1911, ch. 755, sec. 6.*

MISSISSIPPI

All orders and decisions of commission affecting any railroad or other common carrier shall be certified to the railroad or other carrier, or to some officer, agent or employe and

served or executed in the same manner as notices to them are required to be served or executed. *Code 1906, sec. 4835.*

MISSOURI

Commissioners shall render a decision in every case investigated in accordance with the facts thereby ascertained, and which shall embrace a summary statement of such facts. In case that commissioners shall find in any case that such common carrier has been guilty of any violation of said sections 3179 to 3207, they shall incorporate such finding in said decision, and also an order to such common carrier to desist immediately from such violation. In case they shall find that any injury or damage to any person or persons making complaint as aforesaid has accrued by reason of such violation, they shall award the amount thereof, and incorporate in their decision a statement thereof, and the names of the person or persons so damaged, together with an order to such common carrier to pay the same to such person by date to be therein specified. In case that any such decision shall be against any such common carrier, it shall pay all costs of the investigation, which costs shall be specified in the decision of commissioners, together with an order to pay to them immediately the amount thereof. A copy of such decision, signed by the commissioners and attested by their secretary, and sealed with their seal, shall be furnished to each party in interest, either personally, by registered letter, or in such other manner as the commissioners may deem sufficient. **3805** Commissioners shall make and preserve a record of all proceedings in every investigation, and of their decision therein, which shall be a public record, and open to the inspection of any citizen of this state. And if such common carrier shall fail or refuse to pay the amount adjudged to be due, on or before the day specified aforesaid, commissioners may at their own instance, and shall when requested by the person or persons injured or damaged, cause the attorney general or the prosecuting attorney of the proper county to institute suit against such common carrier in the name of the state, at the relation and to the use of the party injured or damaged, to enforce the payment thereof, together with costs and upon the trial of such a cause a certified copy of the award and decision of commissioners shall be received as prima facie evidence of each and every fact therein stated; and provided, however, that the person or persons to whom such damages are due may institute suit for same in his own name. If the result of such examination be in favor of such common carrier, the amount of such cost shall be by commissioners certified to the

state auditor, who shall issue a warrant for the payment thereof out of any money in the state treasury appropriated for that purpose. *Rev. Laws 1909, sec. 3196.*

All orders of commission when made in accordance with the powers conferred upon it by the laws of this state shall be in force and effect until overruled or modified on a final hearing ~~2806~~ by a court of competent jurisdiction. Such orders shall likewise be in effect pending an appeal of any case from the lower courts to the higher courts unless a supersedeas bond be given as hereinafter provided. *Same, sec. 3281.*

NEBRASKA

Said order or orders provided for in this section shall be in force and effect from and after the date fixed by commission, and shall so remain until annulled, modified or revised by commission, or until finally adjudged to be unreasonable and unjust in a court of competent jurisdiction; provided, that no ~~2807~~ further hearing need be had before commission with reference to said order or orders. Provided, further, that if said railway company, common carrier, person or persons affected by said order or orders shall commence any proceeding or proceedings, affecting any decision, rule or order of commission, said order or orders shall be held in abeyance until finally determined in said court. *Cobbey's Annot. Stats. 1909, sec. 10658(b).*

NEW HAMPSHIRE Every order of commission shall be served upon every person or corporation to be affected thereby, either by personal delivery or sending by registered mail a certified copy thereof to such person, or in the case of a corporation, to some officer or agent thereof upon whom writs could be served under ~~2808~~ the provisions of law. Every order of commission shall take effect at the time specified therein, and, except as otherwise in this act especially provided, shall continue in force for a period therein designated, unless the same shall be suspended, modified or set aside by commission, or be suspended or set aside by a court of competent jurisdiction. *Laws 1911, ch. 164, sec. 17(a).*

NEW JERSEY

Every order made by commission shall be served upon the person or public utility affected thereby, within ten days from the time said order is filed, by personally delivering or by mailing a certified copy thereof in a sealed package, with postage prepaid, to the person to be affected thereby, or in case of ~~2809~~ a public utility, to any officer or agent thereof upon whom a summons may be served, in accordance with the provisions of law of

this state. All orders of commission to continue service or rates in effect at the time said order is made shall be immediately operative; all other orders shall become effective upon the date specified therein, which shall be at least 20 days after date of said order. *Laws 1911, ch. 195, sec. 32.*

NEW MEXICO

See pars. 3756, 3757.

NEW YORK

A provision substantially identical with pars.

3810 3801, 3802. *Laws 1910, ch. 480, sec. 23.*

Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section, it shall make and file an
3811 order either dismissing the petition or complaint or directing the common carrier, railroad or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which commission may specify and require. *Same, sec. 48(3).*

Whenever commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a telegraph or telephone corporation under this section, it shall within 60 days after final submission make and file
3812 an order either dismissing the petition of complaint or directing the telegraph or telephone corporation complained of to satisfy the cause of complaint in whole or to the extent which commission may specify and require. *Same, sec. 96(3).*

NORTH DAKOTA A provision substantially identical with par.

3813 3799. *Rev, Codes 1905, sec. 4356.*

If in any case in which an investigation shall be made by commission it shall be made to appear to the satisfaction of commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this article or of any law cognizable by commission by any railroad, railroad corporation or common carrier, or that any injury or damages have been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, commission shall forthwith cause a copy of its report in respect thereto to be delivered to such railroad, railroad corporation or common carrier,
3814 together with a notice to said railroad, railroad corporation or common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or

both, within a reasonable time to be specified by commission, and if within the time specified it shall be made to appear to commission that such railroad, railroad corporation or common carrier has ceased from violation of such law and has made reparation for the injury found to have been done, in compliance with the report and notice of commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by commission and said railroad, railroad corporation or common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law. *Same, sec. 4357.*

OHIO Certified copies of all orders of commission shall be delivered to an officer or station agent of each railroad
3815 affected thereby, and shall take effect within such time thereafter as commission prescribes. *Code 1910, sec. 537.*

All orders made by commission shall of their own force take
3816 effect and become effective and operative 30 days after service thereof, unless a different time be provided in the order. *Laws 1911, no. 325, sec. 43.*

3817 Also a provision identical with par. 3801. *Same, sec. 74.*

OREGON All orders made by commission upon notice to any railroad as defined in section 11 of chapter 53 of the laws of 1907 and after hearing shall remain in force and shall bind the successors in interest, grantees and lessees of such railroads or its railroad property until set aside as provided by law. Whenever any complaint has been filed with commission against any railroad as defined in said section 11, or an investigation has been commenced by commission upon its own motion against any rail-
3818 road, and the railroad has received notice thereof in the manner as provided by said chapter 53, and the matter is pending undetermined, when the property or franchises of said railroad is sold, leased or otherwise assigned, such complaint may be heard and investigation continued and concluded and an order may be made in the premises notwithstanding any change in possession or any such assignment, sale or lease by the railroad complained of or investigated, and any order made shall bind the successor and shall be observed by it. *Gen. Laws 1911, ch. 56, sec. 1.*

PENNSYLVANIA Every recommendation, decision or ruling of commission shall be forthwith forwarded by mail to the president, secretary or other chief officer of the common carrier affected
3819 thereby, at his usual place of business, and a copy thereof and a

registered mail receipt shall be prima facie evidence of the receipt of said recommendation, decision or ruling by the person to whom addressed in due course of mail. *Laws 1907, no. 250, sec. 16.*

Commission may modify its recommendations, decisions or rulings upon such notice and in such manner as it shall deem proper. Said common carrier shall within 30 days from receipt of notice of the making of any recommendation, decision or ruling, notify commission of its intention to comply or refuse to comply therewith. *Same.*

Commission shall certify each of its decisions, rulings, and recommendations to the secretary of internal affairs of the commonwealth and the attorney general, for their consideration and action according to law, as the public interests may require. Copies of said decisions, rulings and recommendations shall be furnished to the complainant and the common carrier or carriers affected thereby. *Same, sec. 22.*

Nothing in the act shall be construed to impair the power and authority of the secretary of internal affairs, in the exercise of the general supervision over railroads, canals, and other transportation companies, vested in him by the constitution and laws of this commonwealth. *Same.*

RHODE ISLAND Commission shall cause a certified copy of all its orders to be served upon an officer or agent of the public utility affected thereby, and upon the complainant, if any there be, and all such orders shall of their own force take effect and become operative ten days after service thereof, unless a different time be fixed by the order. *Acts 1912, ch. 795, sec. 29.*

SOUTH DAKOTA For common carriers, identical with pars. 3799, 3814. *Sess. Laws 1911, ch. 207, secs. 17, 18.*

WASHINGTON *See par. 3787.*

WISCONSIN Certified copies of all orders of commission shall be delivered to railroads affected thereby in like manner, and same shall take effect within such time thereafter as commission shall prescribe. *Laws 1905, ch. 362, sec. 1797-14(c).*

Commission shall cause a certified copy of all orders to be delivered to an officer or agent of the public utility affected thereby, and all such orders shall of their own force take effect and become operative 20 days after service thereof, unless a different time be provided by said order. *Laws 1907, ch. 499, sec. 1797m-60(4).*

4. *Rehearings.*

UNITED STATES After a decision, order, or requirement has been made by commission in any proceeding any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and it shall be lawful for commission in its discretion to grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as commission may establish. *Act to Regulate Commerce, sec. 16a.*

No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of commission. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts, including those arising since the former hearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such rehearing, reversing, changing or modifying the original determination shall be subject to the same provisions as an original order. *Same.*

ARIZONA, CALIFORNIA

After any order or decision has been made by commission, any party to the action or proceeding, or any stockholder, or bondholder, or other party pecuniarily interested in the public service corporation¹ affected, or the attorney general on behalf of the state, may apply for a rehearing in respect to any matters determined in said action or proceeding and specified in the application for rehearing, and commission may grant and hold such rehearing on said matters, if in its judgment sufficient reason therefor be made to appear. No cause of action arising out of any order or decision of commission shall accrue in any court to any corporation or person, or the state,² unless such corporation or person, or the state,² shall have made, before the effective date of said order or decision, application to commission for a rehearing. Such application shall set forth specifically the

¹ "Public utility," in California.

² "Corporation or person or the state" reads "corporation or person," in California.

ground or grounds on which the applicant considers said decision or order to be unlawful. No corporation or person, or the state,¹ shall in any court urge or rely on any ground not set forth in said application. Any application for a rehearing made ten days or more before the effective date of the order as to which a rehearing is sought, shall be either granted or denied before such effective date, or the order shall stand suspended until such application is granted or denied. Any application for a rehearing made within less than ten days before the effective date of the order as to which a rehearing is sought, and not granted within 20 days, may be taken by the party making the application to be denied, unless the effective date of the order is extended for a period of the pendency of the application. If any application for a rehearing be granted without a suspension of the order involved, commission shall forthwith proceed to hear the matter with all dispatch and shall determine the same within 20 days after final submission, and if such determination is not made within said time, it may be taken by any party to the rehearing that the order involved is affirmed. An application for rehearing shall not excuse any corporation or person from complying with and obeying any order or decision, or any requirements of any order or decision of commission theretofore made, or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as commission may by order direct. If, after such rehearing and a consideration of all the facts, including those arising since the making of the order or decision, commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, commission may abrogate, change, or modify the same. An order or decision made after such rehearing, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by commission. *Ariz.—Sess. Laws 1912, ch. 90, sec. 66; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 66.*

COLORADO Identical with par. 3827. *Laws 1910, sp. sess., ch. 5, sec. 17.*

INDIANA Commission may grant rehearings in any case in which it has made a final order, or alter, change or modify any

¹ "Corporation or person or the state" reads "corporation or person," in California.

final order made by it. All orders of commission, except as otherwise provided in this act, shall take effect within such reasonable time, not more than 30 days after entry thereof, and shall continue in force for such period of time as shall be prescribed in the order of commission, unless the same shall be suspended, or set aside, or modified by a court of competent jurisdiction, as provided in section six. *Acts 1907, ch. 241, sec. 7(c), as amended by Acts 1911, ch. 185, sec. 1.*

MARYLAND

After an order has been made by commission, any party interested therein may apply for a rehearing in respect to any matter determined therein, and commission may grant and hold such a hearing if, in its judgment, sufficient reason therefor be made to appear; if a rehearing shall be granted, the same shall be determined by commission within 30 days after the same shall be finally submitted. Any application for such a rehearing shall not excuse any common carrier, railroad corporation, or street railroad corporation, or any other corporation or company or person from complying with or obeying any order or any requirements of any order of commission or operate in any manner to stay or postpone the enforcement thereof, except as commission may by order direct. If, after such rehearing and consideration of the facts, including those arising since the making of the order, commission shall be of opinion that the original order, or any part thereof, is in any respect unjust or unwarranted, commission may abrogate, change or modify the same. An order made for any such rehearing, abrogating, changing or modifying the original order shall have the same force and effect as an original order. *Laws 1910, ch. 180, sec. 11.*

NEW JERSEY

Commission at any time may order a rehearing and extend, revoke or modify any order made by it. *Laws 1911, ch. 195, sec. 31.*

NEW MEXICO

Rehearings may be granted to any party by commission in its discretion. An application for rehearing, or for the change or modification of an order or requirement of commission, on account of facts and circumstances arising subsequent to the hearing or consequences resulting from compliance with such order or requirement, shall be by motion, which motion shall state specifically the grounds upon which said application is made, and matters relied upon by the applicant. In case such rehearing is granted notice thereof shall be given in the same manner as notice of other hearings. *Laws 1912, ch. 78, sec. 11.*

NEW YORK

After an order has been made by a commission, any corporation or person interested therein may apply for a rehearing in respect to any matter determined therein, and commission shall grant and hold such a rehearing if in its judgment sufficient reason therefor be made to appear; if a rehearing shall be granted, the same shall be determined by commission within 30 days after the same shall be finally submitted. An application for such a rehearing shall not excuse any corporation or person from complying with or obeying any order or any requirement of any order of commission, or operate in any manner to
3836 stay or postpone the enforcement thereof except as commission may by order direct. If, after such rehearing and a consideration of the facts, including those arising since the making of the order, commission shall be of opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, commission may abrogate or change the same. An order made after any such rehearing abrogating or changing the original order shall have the same force and effect as an original order but shall not affect any right or the enforcement of any right arising from or by virtue of the original order.
Laws 1910, ch. 480, sec. 22.

OHIO

Upon the application of any person, public utility or railroad aggrieved thereby, commission may, upon written petition therefor, filed within 30 days after any order made by commission shall have been entered upon its records, grant a rehearing of the matter upon which such order was based. Notice of such rehearing shall be given as required with respect
3836 to original hearings of the time and place for the rehearing thereon. Upon such rehearing any party may offer additional evidence which could not, with reasonable diligence, have been offered on the former hearing. Upon such rehearing commission may change, modify, vacate or affirm its former order or make and enter such new order as may be deemed necessary.
Laws 1911, no. 325, sec. 45.

WASHINGTON

Any public service company affected by any order of commission, and deeming itself aggrieved, may, after the expiration of two years from the date of such order taking effect, petition commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the issuance of such order,

or by showing a result injuriously affecting the petitioner which was not considered or anticipated at the former hearing, or that the effect of such order has been such as was not contemplated by commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing. Upon the filing of such petition, such proceedings shall be had thereon as are provided for hearings upon complaint, and such orders may be reviewed as are other orders of commission; provided, that no order superseding the order of commission denying such rehearing shall be granted by the court pending the review. In case any order of commission shall not be reviewed, but shall be complied with by the public service company, such petition for rehearing may be filed within six months from and after the date of the taking effect of such order, and the proceedings thereon shall be as in this section provided. Commission may, in its discretion, permit the filing of a petition for rehearing at any time. No order of commission upon a rehearing shall affect any right of action or penalty accruing under the original order unless so ordered by commission. *Laws 1911, ch. 117, sec. 89.*

5. *Rescission or Amendment of Orders.*

UNITED STATES Commission may suspend or modify its orders upon such notice and in such manner as it shall deem proper. *Act to Regulate Commerce, sec. 16.*

ARIZONA, CALIFORNIA

Commission may at any time, upon notice to the public service corporation¹ affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering or amending a prior order or decision shall, when served upon the public service corporation affected, have the same effect as is herein provided for original orders or decisions. *Ariz.—Sess. Laws 1912, ch. 90, sec. 64; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 64.*

COLORADO Commission shall be authorized to suspend or modify its order upon such notice, and in such manner as it shall deem proper. *Laws 1910, sp. sess., ch. 5, sec. 16.*

¹"Public utility," in California.

CONNECTICUT Commission may on application of any street
3841 railway company, with due notice to adverse parties, amend or
change any order passed by it on appeal. *Gen. Stats. 1902, sec.*
3833.

WASHINGTON Commission may at any time, upon notice to
the public service company affected, and after opportunity to be
heard as provided in the case of complaints, rescind, alter or
3842 amend any order or rule made, issued or promulgated by it, and
any order or rule rescinding, altering or amending any prior order
or rule shall, when served upon the public service company af-
fected, have the same effect as herein provided for original orders
and rules. *Laws 1911, ch. 117, sec. 90.*

D. DUTY OF COMMISSION WITH RESPECT TO THE KEEPING OF RECORDS AND TO THE PUBLICITY THEREOF.

UNITED STATES All reports of investigations made by commis-
sion shall be entered of record and a copy thereof shall be fur-
3843 nished to party who may have complained and to any common
carrier that may have been complained of. *Act to Regulate
Commerce, sec. 14.*

The copies of schedules and classifications and tariffs of
rates, fares and charges and of all contracts, agreements and
arrangements between common carriers filed with commission as
herein provided, and the statistics, tables and figures contained in
the annual or other reports of carriers made to commission as re-
quired under the provisions of this act, shall be preserved as pub-
3844 lic records in the custody of the secretary of commission, and
shall be received as prima facie evidence of what they purport
to be for purpose of investigations by commission and in all
judicial proceedings; and copies of and extracts from any of said
schedules, classifications, tariffs, contracts, agreements and
arrangements or reports made public records as aforesaid, cer-
tified by secretary under commission's seal, shall be received
in evidence with like effect as originals. *Same, sec. 16.*

See also par. 3712.

ALABAMA Records shall be open at all times to inspection
3845 of public. *Code 1907, sec. 5642.*

A full and complete record of all proceedings before com-
mission on any investigation had and all testimony therein shall

be taken down by the stenographer appointed by commission.
3846 A copy of such transcript shall be furnished on demand to any party to such investigation or other person upon the payment of the cost of transcribing the testimony not exceeding ten cents per folio. *Acts 1907, sp. sess., no. 21, sec. 2.*

See also pars. 363, 2619, 2785.

ARIZONA

No information furnished to commission by a public service corporation, except such matters as are specifically required to be open to public inspection by the provisions of this act, shall be open to public inspection or made public
3847 except on order of commission, or by commission, or a commissioner in the course of a hearing or proceeding. Any officer or employe of commission who, in violation of the provisions of this subsection, divulges any such information shall be guilty of a misdemeanor. *Sess. Laws 1912, ch. 90, sec. 28(d).*

Every order, authorization or certificate issued or approved by commission under any provision of sections 38, 39, 40, 41, 43, 50, 51, or 52 of this act shall be in writing and entered on the records of commission. Any such order, authorization or certificate, or a copy thereof, or a copy of the record of any such order, authorization or certificate, certified by a commissioner or by the secretary under the official seal of commission to be a true copy of the original order, authorization, certificate or entry,
3848 may be recorded in the office of the county recorder of any county in which is located the principal place of business of any public service corporation affected thereby, or in which is situated any property of any such public service corporation, and such record shall impart notice of its provisions to all persons. A certificate under the seal of commission that any such order, authorization or certificate has not been modified, stayed, suspended or revoked may also be recorded in the same offices in the same manner and with like effect. *Same, sec. 56(b).*

See also pars. 613, 3715.

ARKANSAS

The determination of every matter by commission shall be in writing, and by the clerk spread upon a record kept for that purpose, which shall be a public record, and subject to inspection as such, and proof hereof shall be made by the clerk of commission, which shall be received in evidence in the courts
3849 as certified copies of any other record. And when any matter has been determined by commission in the course of any proceeding relating to the regulation or supervision of railroads,

proof of the fact of such determination, duly certified as aforesaid, shall be received in all civil actions in the courts of this state as prima facie evidence that such determination was right and proper. *Kirby's Digest 1904, sec. 6814.*

CALIFORNIA Identical with pars. 3847, 3848, except that
3839 "public service corporation" reads "public utility." *Stats. 1911, 1st. ex. sess., ch. 14, secs. 28(d), 56(b).*
See also pars. 620, 3717.

COLORADO All reports of investigations made by commission shall be entered of record and a copy thereof shall be furnished to the party who may have complained and to the common carrier. *Laws 1910, sp. sess., ch. 5, sec. 14.*

CONNECTICUT Commission shall keep a record of all communications addressed to it or to any of its members or employees officially of all its and their official acts and proceedings and of all
3852 facts learned in relation to any casualty or accident with the names of the persons from whom such facts were obtained or by whom they may be proved. *Pub. Acts 1911, ch. 128, sec. 6.*
See also pars. 2437, 2570, 2627, 3797.

FLORIDA *See par. 2799.*

INDIANA *See par. 2629.*

IOWA *See pars. 3723, 3799.*

KANSAS Commission shall keep an accurate record of
3853 all its official acts. *Gen. Stats. 1909, sec. 7184.*

KENTUCKY Commission shall not be required to give publicity to any contracts, leases, or engagements obtained by them in their official capacity, if the interest of any company would
3854 thereby be injuriously affected, unless in the judgment of commission the public interest requires it. *Carroll's Stats. 1909, sec. 831.*

MARYLAND All facts and information in the possession of commission shall be public, and all reports, records, files, books, accounts, papers and memoranda of every nature whatsoever in their possession shall be open to inspection by the public at all reasonable times; provided, however, that whenever commission shall determine it shall be necessary in the interests of the public
3855 to withhold from the public any facts or information in its possession, such facts may be withheld for such period after the acqui-

sition thereof not exceeding 90 days, as commission may determine. No facts or information shall be withheld by commission from the public for a longer period than 90 days, nor be so withheld for any reason whatsoever other than in the interest of the public. *Laws 1910, ch. 180, sec. 8.*

3556 All proceedings of commission, and all documents and records in its possession, shall be public records. *Same.*
See also par. 2981.

MASSACHUSETTS Every state board and commission shall keep a record of its proceedings in any matter considered by it under provisions of this chapter or under any laws affecting street railways, in which it shall enter every request made by any party
3597 before it for a ruling of law and of its action upon such request, and the neglect either to grant or refuse such request shall be taken in any judicial review of such proceedings as a refusal. *Acts 1906, ch. 463, pt. iii, sec. 155.*
See also pars. 364, 2502.

MICHIGAN *See pars. 947, 2643.*

MINNESOTA Every vote and official act of commission shall
3688 be entered of record. *Rev. Laws 1905, sec. 1961.*
See also pars. 2644, 3740.

MISSISSIPPI All findings of commission and the determination of every matter by it shall be made in writing and placed upon its minutes and proof thereof shall be made by a copy of same duly certified by secretary under seal of commission, and whenever any matter has been determined by commission in the
3888 course of any proceeding before it, the effect of such determination duly certified shall be received in all courts and by every officer in civil cases as prima facie evidence that such determination was right and proper and the record of the proceeding of commission shall be deemed a public record and shall at all seasonable times be subject to inspection of the public. *Code 1906, sec. 4836.*
See also pars. 2648, 3688.

MONTANA *See pars. 175, 2649.*

NEBRASKA All orders together with the findings of fact and conclusions of commission based thereon, shall be reduced to writing and spread upon the record and a copy thereof with the date when said order or orders shall go into force and effect shall be furnished to the party who complained and any other person

or persons directly interested therein and to any railway company or common carrier complained of or with reference to whom a hearing has been had before commission on their own motion, and said order or orders shall go into force and effect at such time
3800 as is within the discretion of commission just and reasonable, and said order or orders, the findings of fact and conclusions contained in said record shall thereafter in all judicial proceedings when properly authenticated as provided by law, be admitted in evidence without further proof as prima facie evidence of every fact found and that said order or orders are prima facie just and reasonable, provided always that no order or orders shall go into force and effect within ten days after the mailing of said notice to persons affected thereby. *Cobbey's Annot. Stats. 1909, sec. 10658(a).*

NEVADA All the reports, records, accounts, books, files, papers and memoranda of every nature in the possession of commission shall be open to the public at all reasonable times, subject to the exception that when commission deems it necessary,
3851 in the interest of the public, it may withhold from the public any facts or information in its possession for a period of not more than 90 days after the acquisition of such facts or information. *Stats. 1911, ch. 162, sec. 9.*

A full and complete record shall be kept of all proceedings before commission or its representative on any formal investigation, and all testimony shall be taken down by a stenographer appointed by commission. Whenever any complaint is served
3882 upon commission as hereinafter provided for the bringing of actions against commission, before action is reached for trial commission shall cause a certified copy of all proceedings held and testimony taken upon such investigation to be filed with clerk of court in which action is pending. *Same, sec. 21.*

See also pars. 979, 2651, 4225.

NEW MEXICO Clerk shall keep a complete record and separate file of each proceeding had before commission. The testimony of witnesses shall be taken by a stenographer who shall
3943 transcribe the evidence in triplicate. The original order, the evidence adduced at the hearing transcribed as aforesaid, together with all exhibits and documents in the case shall constitute such file. *Laws 1912, ch. 78, sec. 12.*

See also par. 2881.

NEW YORK *See pars. 2886, 2897, 3062.*

NORTH CAROLINA Commission shall keep a record showing in
3364 detail all receipts and disbursements. *Pell's Revisal 1908, sec.*
1115.

See also par. 2656.

NORTH DAKOTA *See pars. 3697, 3766, 3813.*

OHIO A full record shall be kept of the proceedings
before commission on investigations. All testimony shall be
3365 taken by the stenographer appointed by commission. *Code 1910,*
sec. 529.

All facts and information in the possession of commission
shall be public, and all reports, records, files, books, accounts,
papers and memoranda of every nature whatsoever in their
3366 possession shall be open to inspection by the public at all reason-
able times, except when commission shall determine it to be nec-
essary to withhold for a reasonable time from the public any facts
or information in its possession. *Laws 1911, no. 325, sec. 40.*

The copies of schedules and classifications and tariffs of
rates, tolls, prices, rentals, regulations, practices, services, fares
and charges, and of all contracts, agreements and arrangements
between public utilities and railroads, or either, filed with com-
mission, and the statistics, tables and figures contained in the
annual or other reports of such companies made to commission
as required under the provisions of this act, shall be preserved
as public records in the custody of commission and shall be re-
3367 ceived as prima facie evidence of what they purport to be, for
the purpose of investigations and prosecutions by commission
and in all judicial proceedings; and copies of and extracts from
any such schedules, classifications, tariffs, contracts, agreements,
arrangements, or reports, made public records as aforesaid, cer-
tified by commission under the seal of commission, shall be re-
ceived in evidence with like effect as the originals. Also copies
of any order made by commission certified under the seal of
commission, shall be furnished to any person upon application.
Same, sec. 80.

See also pars. 2662, 2770, 3447.

OREGON A full and complete record shall be kept of all
proceedings had before commission or any commissioner, exam-
3368 iner or agent on any investigation, and all testimony shall be
taken down by the stenographer appointed by commission. *Gen.*
Laws 1911, ch. 279, sec. 50.

See also par. 1011.

PENNSYLVANIA Commission shall not give publicity to such information, contracts, agreements, leases, or other engagements, 3899 if, in its judgment, the public interest do not require it, or the welfare and prosperity of the common carriers of the state might be thereby affected. *Laws 1907, no. 250, sec. 19.*

See also pars. 175, 3770.

RHODE ISLAND All hearings and orders of commission and its record thereof shall be public. All reports, records, files, books, 3870 and accounts, in the possession of commission shall be open to inspection to the public at all reasonable times. *Acts 1912, ch. 795, sec. 9.*

See also pars. 175, 3774.

SOUTH CAROLINA *See par. 2917.*

SOUTH DAKOTA *See pars. 2669, 3076, 3780, 3824.*

TENNESSEE The minutes of all official documents of every kind shall be kept on file in office of commission. A copy of any 3871 of their proceedings or any document on file in its office, when duly certified by chairman and secretary of commission, shall be taken as evidence in the courts of this state. *Acts 1897, ch. 10, sec. 6.*

The minutes shall be signed by each member of commission 3872 or by those present when any business is transacted. *Same.*

Commission shall not require publicity to any contracts, leases or engagements obtained by them in their official capacity, 3873 if the interests of any company would thereby be injuriously affected, unless, in the judgment of commission, the public interest requires it. *Same, sec. 11.*

TEXAS *See par. 3293.*

VERMONT *See pars. 175, 2673, 3021, 3023.*

WASHINGTON All proceedings of commission, and all documents and records in possession of commission, shall be public 3874 records. *Laws 1911, ch. 117, sec. 6.*

See also pars. 701, 3787.

WISCONSIN All facts and information in the possession of commission shall be public and all reports, records, files, books, 3875 accounts, papers and memoranda of every nature whatsoever in their possession shall be open to inspection by the public at all reasonable times except as provided in section 1797m-21. *Laws 1907, ch. 499, sec. 1797m-20.*

Whenever commission shall determine it to be necessary in the interest of the public to withhold from the public any facts or information in its possession, such facts may be withheld for such period after the acquisition thereof not exceeding 90 days as commission may determine. *Same, sec. 1797m-21(1).*

No facts or information shall be withheld by commission from the public for a longer period than 90 days nor be so withheld for any reason whatsoever other than in the interest of the public. *Same, sec. 1797m-21(2).*

A full and complete record shall be kept of all proceedings had before commission or its agent on any formal investigation had, and all testimony shall be taken down by stenographer appointed by commission. *Same, sec. 1797m-56.*

See also pars. 1045, 3142.

E. VALIDITY OF RECORDS AND DOCUMENTS, OR CERTIFIED COPIES THEREOF, ON FILE WITH COMMISSION, AS EVIDENCE IN COMMISSION OR JUDICIAL PROCEEDINGS.

UNITED STATES *See pars. 2617, 3029, 3844, 4198.*

ALABAMA Copies of all official documents and reports filed or deposited according to law in the office of commission and of all orders of commission, and all records of its office certified by commission or any member thereof, or by the clerk or secretary of commission to be true copies of the originals, under the official seal of commission, shall be received in evidence in any court in like manner as the original. *Acts 1907, sp. sess., no. 17, sec. 9.*

The printed reports of commission, published by its authority, or any part thereof, shall be admissible in evidence in any court in Alabama without further proof, and any schedule of rates made or approved by commission or any part thereof, and any order passed or rule or regulation prescribed by commission shall be admissible in evidence in any court upon the certificate of commission or any member thereof, or of the clerk or secretary of commission. *Same, sec. 13.*

ARIZONA, CALIFORNIA

Copies of all official documents and orders filed or deposited according to law in the office of commission, certified by a commissioner or by the secretary under the official

seal of commission to be true copies of the originals, shall be evidence in a like manner as the originals. *Ariz.—Sess. Laws 1912, ch. 90, sec. 56(a); Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 56(a).*
See also pars. 614, 2620, 3718.

ARKANSAS *See par. 3844.*

COLORADO *See pars. 3036, 4206.*

FLORIDA *See par. 4079.*

GEORGIA The printed reports of commission published by its authority, shall be admissible as evidence in any court in Georgia without further proof, and the schedules of rates
3882 made by commission, and any order passed or rule or regulation prescribed by commission, shall be admissible in evidence in any court in Georgia, upon the certificate of the secretary of commission. *Acts 1907, no. 223, sec. 5.*

ILLINOIS In all suits, civil or criminal, arising under the provisions of this act where any document, file, record, memorandum, book, schedule, tariff or paper in the custody of commission
3883 may be material or competent as evidence, then such document, file, record, memorandum, book, schedule, tariff, or paper may be proved by a copy thereof duly certified under the hand of the secretary of commission with the seal of commission affixed thereto. *Revisal 1909, ch. 114, sec. 378.*
See also pars. 421, 2574, 3679.

INDIANA In all proceedings by or before commission as provided in this act and in all proceedings in any court in this state as provided in this act, commission and such courts shall receive in evidence all schedules of rates and charges, rules and regulations in force by carriers in this state and filed with commission as provided in this act and of all such rates, rules and regulations as shall be adopted by commission or ordered observed by any court of this state as provided in this act, without
3884 formal proof thereof being made and commission and such courts shall likewise also receive in evidence the contents of all reports made to commission by carriers as required in this act, and of all official and statistical reports and publications published by the bureau of statistics in this state or by the state board of tax commissioners, by the interstate commerce commission, by the department having control of the federal census and of the United States commissioner of corporations without formal proof being offered as to their authenticity. *Acts 1907, ch. 241, sec. 5.*

Upon application of any person, commission shall furnish certified copies of any classification, rates, rules, regulations or orders and such certified or printed copies published by authority
2885 of commission shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order or classification therein contained and which may be at issue in the trial is the official act of commission. *Same, sec. 16.*
See also par. 2629.

IOWA

See pars. 2630, 3799.

KANSAS

Upon application of any person, commission shall furnish, free, certified copies of any classification, rates, rules, regulations or orders; and such certified copies, or printed copies, published by authority of commission, shall be admissible in evidence in any suit, and sufficient to establish the fact that [in] any charge, rate, rule, order or classification therein contained, and which may be in issue in the trial, is the official act of commission; and such determinations and orders of commission
2886 shall be prima facie evidence, in any action in which they are offered, of the reasonableness and justness of the classifications, rates and charges involved therein and of all other matters therein found and determined; and after the lapse of 30 days from the time such determinations and orders shall be made, no suit then pending to set the same aside and they remaining in full force and effect, such determinations and orders shall be held to be conclusive as to the matters involved therein. *Gen. Stats. 1909, sec. 7176.*

Copies of the record of commission, certified by the secretary and attested with the seal of commission, shall be received
2887 in evidence with the like effect as copies of other public records. *Same, sec. 7184.*

See also pars. 3682, 3949.

MARYLAND

Identical with par. 3881. *Laws 1910, ch. 180,*
2888 *sec. 8.*

See also pars. 634, 2635.

MICHIGAN

A transcribed copy of the evidence and proceedings or any specific part thereof on any investigation taken by the stenographer, certified by him to be a true and correct transcript of all the testimony on the investigation or of a particular witness or of any specific part thereof carefully compared by him with his original notes and to be a correct statement of
2889 the evidence and proceedings had on such investigation so pur-

porting to be taken and transcribed shall be received in evidence with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished upon demand free of cost to any party to such investigations and to all other persons on payment of a reasonable amount therefor. *Pub. Acts 1909, no. 300, sec. 23(d)*.

3890 Upon application of any person, commission shall furnish certified copies under the seal of commission and signed by commission or its secretary of any order made by him which shall be prima facie evidence in any court or proceedings of the facts stated therein. *Same, sec. 27(c)*.

MINNESOTA In any action or proceeding brought to enforce any order of commission or when such order is brought in question in any of the courts in the state it shall be prima facie evidence of the facts therein stated. *Rev. Laws 1905, sec. 1989*.

See also par. 3966.

MISSISSIPPI *See par. 2591.*

MISSOURI *See par. 3970.*

NEBRASKA *See par. 3860.*

3892 **NEW HAMPSHIRE** All copies of official documents and orders filed or deposited with commission or made by commission, certified by any member of commission and authenticated by said seal, shall be received in evidence in any court in like manner as originals. *Laws 1911, ch. 164, sec. 2(j)*.

NEW JERSEY Substantially identical with par. 3881. *Laws 3893 1911, ch. 195, sec. 30.*

3864 **NEW MEXICO** Where relevant and material matter offered in evidence is embraced in a report, tariff, rate sheet, classification, book, pamphlet or other written or printed statement or document of any kind containing other matter not material or relevant, and not intended to be put in evidence, such report, tariff, rate sheet, classification, book, pamphlet, or other written or printed statement or document need not be received or filed with commission, but counsel or party offering the same shall also present in convenient form for filing a copy of such material and relevant matter, which copy shall be received and filed as evidence and made a part of the records; or whenever practicable such matter may be read and taken down by the stenographer and thus made a part of the record. *Laws 1912, ch. 78, sec. 8.*

NEW YORK Identical with par. 3881. *Laws 1910, ch. 480, 3898 sec. 17.*

See also par. 2655.

NORTH DAKOTA *See pars. 3813, 3993.*

OHIO Substantially identical with pars. 3889, 3890. *3896 Code 1910, secs. 534, 554. Laws 1911, no. 325, sec. 80.*

See also par. 3867.

OREGON A transcribed copy of the evidence and proceedings or any specific part thereof on any investigation taken by the stenographer appointed by commission, being certified by such stenographer to be a true and correct transcript in long hand of all the testimony on the investigation or of a particular witness or of other specific parts thereof, carefully compared by *3897* him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and transcribed, shall be received in evidence with the same effect as if said evidence had been given and said proceedings had upon the trial in which said transcript or any part thereof is offered. A copy of such transcript shall be furnished on demand free of cost to any party to such investigation.¹ *Gen. Laws 1907, ch. 53, sec. 29. Gen. Laws 1911, ch. 279, sec. 50.*

3898 Upon application of any person commission shall furnish certified copies under seal of commission of any order made by it which shall be prima facie evidence of the facts stated therein. *Gen. Laws 1907, ch. 53, sec. 38. Gen. Laws 1911, ch. 279, sec. 60.*
See also par. 2663.

RHODE ISLAND *See par. 2666.*

SOUTH DAKOTA In any action or proceeding wherein any order of commission shall in anywise come in question, the validity of such order shall be presumed, and it shall not be necessary to *3899* allege or prove any fact upon which the validity of such order depends, but the burden shall be upon the party claiming such order to be invalid to plead and prove the facts establishing such invalidity. *Sess. Laws 1907, ch. 207, sec. 1.*

See also pars. 3824, 4010.

TEXAS Upon application of any person commission shall furnish certified copies of any classification, rates, rules, regulations or orders and such certified copies, or printed copies *3900* published by authority of commission, shall be admissible in

¹ The last sentence of this paragraph appears only in the 1907 act.

evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order or classification therein contained and which may be in issue in the trial is the official act of commission. *Sayles' Civ. Stats. 1897, art. 4578.*

See also par. 3701.

VIRGINIA *See par. 4251.*

WASHINGTON *See pars. 704, 2679.*

WISCONSIN Substantially identical with pars. 3897, 3898.
3901 *Laws 1905, ch. 362, secs. 1797-13(c), 1797-17(b). Laws 1907, ch. 499, secs. 1797m-58, 1797m-59, 1797m-73.*

F. EFFECT OF TECHNICAL OMISSIONS ON VALIDITY OF ACTS OF COMMISSION.

ALABAMA *See par. 4515.*

ARIZONA *See par. 3714.*

CALIFORNIA *See par. 3717.*

INDIANA A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements and orders made and established by commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such acts. *Acts 1907, ch. 241, sec. 16.*

KANSAS A substantial compliance with the requirements of this act shall be sufficient to give effect to all determinations and orders made and established by commission. *Gen. Stats. 1909, sec. 7176.*

MARYLAND A substantial compliance with the requirements of this act shall be sufficient to give effect to all rules, orders, acts and regulations of commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. *Laws 1910, ch. 180, sec. 49.*
See also par. 3735.

MICHIGAN, NEVADA

3905 Identical with par. 3904. *Mich.—Pub. Acts 1909, no. 300, sec. 45; Nev.—Stats. 1907, ch. 44, sec. 33.*

OHIO

A substantial compliance by commission with the requirements of this chapter shall be sufficient to give effect to all its rules, orders, acts and regulations, and they shall not be
2906 declared inoperative, illegal or void for an omission of a technical nature in respect thereto. Nothing in this chapter shall be construed as affecting, modifying or repealing any law fixing the rate which a company operating a railroad may demand and receive for the transportation of passengers. *Code 1910, sec. 581.*

OREGON

A substantial compliance with the requirements of this act shall be sufficient to give effect to all the rules, orders, acts and regulations of commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto. The provisions of this act shall
2907 be liberally construed with a view to the public welfare, efficient (transportation) facilities and substantial justice between shippers (patrons) and passengers and railroads (public utilities). *Gen. Laws 1907, ch. 53, sec. 59. Gen. Laws 1911, ch. 279, sec. 75.*

RHODE ISLAND

Identical with par. 3904. *Acts 1912, ch. 795,*
2908 *sec. 58.*

See also par. 3776.

TEXAS

A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all classifications, rates, charges, rules, regulations, requirements
2909 and orders made and established by commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act. *Sayles' Civ. Stats. 1897, art. 4578.*

WISCONSIN

Identical with par. 3904. *Laws 1905, ch. 362,*
2910 *sec. 1797-33. Laws 1907, ch. 499, sec. 1797m-103.*

CHAPTER XV

Enforcement

SCOPE NOTE

This chapter includes grants of power authorizing commissions to invoke judicial process for the enforcement of their orders and prescribing penalties for the violation thereof, and such provisions as indicate the degree of validity to be attached to orders of commissions and as prescribe the procedure and legal effect of review of such orders by judicial tribunals. Provisions involving special enforcement machinery incident to the exercise by commissions of particular powers have been excluded. For provisions indicating the validity of valuations of utility property made by commissions, see ch. iii, on basis of rate making. For provisions indicating the validity of rates prescribed by commissions, see ch. iv, on establishment and change of rates. For capitalization provisions containing penalties, see ch. xii, on stock and bond issues. For rate provisions containing penalties, see ch. iii, on basis of rate making, ch. iv, on establishment and change of rates, ch. v, on publicity of rates, and ch. vi, on discrimination in rates and service. For service and safety provisions containing penalties, see ch. vii, on service, and ch. viii, on safety of operation. For account and report provisions containing penalties, see ch. ix, on accounts, and ch. x, on reports. For general procedure provisions containing penalties, see ch. xiv, on commission procedure and practice. For general statement of scope and method, see introduction.

ANALYSIS

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A. AUTHORITY OF COMMISSION TO INVOKE JUDICIAL PROCESS.

UNITED STATES Upon the request of commission, it shall be the duty of any district attorney of the United States to whom commission may apply to institute in the proper court and to prosecute under the direction of the attorney general of the United States all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. *Act to Regulate Commerce, sec. 12.*

If any carrier fails or neglects to obey any order of commission other than for the payment of money, while the same is in effect, commission or any party injured thereby, or the United States, by its attorney general, may apply to the commerce court for the enforcement of such order. If, after hearing, that court determines that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same. *Same, sec. 16.*

The circuit and district courts of the United States shall have jurisdiction, upon the application of the attorney general of the United States at the request of commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them. *Same, sec. 20.*

The circuit and district court of the United States shall have jurisdiction upon the relation of any person or persons, firm or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus

against said common carrier, commanding such common carrier
3914 to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ; provided, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact; provided, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement. *Same, sec. 23.*

In any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested
3915 in or affected by the rate, regulation or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent and subject to the same provisions as are or shall be authorized by law with respect to carriers. *Elkins Act, sec. 2.*

Whenever commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or state, it may be dealt with, inquired of, tried, and determined in either such judicial district or state, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such dis-

crimination by proper orders, writs, and process, which said orders, writs and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the attorney general shall direct, either of his own motion or upon the request of commission, to institute and prosecute such proceedings, and the proceedings provided for by this act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February 4, 1887, entitled "An act to Regulate Commerce" and the acts amendatory thereof. And in proceedings under this act and the acts to regulate commerce the said court shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding; provided, that the provisions of an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted, approved February 11, 1903," shall apply to any case prosecuted under the direction of the attorney general in the name of the interstate commerce commission. *Same, sec. 3.*

See also par. 3486.

ALABAMA

3917 Commission shall enforce and require compliance with all the provisions of all laws now in force or hereafter enacted regulating railroads and other transportation companies on prescribing the duties thereof. *Code 1907, sec. 5651.*

In case of failure or refusal on the part of any person or persons to comply with any order of commission or any commissioner, or any subpoena, or on the refusal of any witness to testify

to any matter regarding which he may be lawfully interrogated, any circuit court or city court in this state, or any judge thereof, **3918** on application of a commissioner, shall issue an attachment for such person or persons, and compel them to comply with said order, or to attend before commission and produce said documents, and give his testimony upon such matters as may be lawfully required, and the court or judge shall have power to punish for contempt as in cases of disobedience of a like subpoena issued from such court, or refusal to testify therein. *Same, sec. 5673.*

If any transportation company affected by any order of commission establishing any rule, regulation, practice or service or any order of commission, except an order establishing rates or charges, shall fail or refuse to comply with the requirements of commission, with respect to said order, and said failure or refusal shall continue for ten days, commission shall have the power, in its own name, to apply to any court of competent jurisdiction or judge thereof, in any county or circuit in which such transportation company may have an agent, for a writ of mandamus or a mandatory injunction to compel such transportation company to put said order in force and observe and obey the same. Either party shall have the right to appeal to the supreme court from **3919** the judgment of the trial court in such proceedings, said appeal to be taken within 30 days. If the transportation company desires to take an appeal from the judgment or order of the trial court granting the mandamus or mandatory injunction and to supersede the same, it shall give, in addition to the bond for costs, a bond with two sureties, to be approved by the clerk or register of the court, which bond shall be in the amount and with the conditions to be prescribed by the trial judge or chancellor, and shall be made payable as prescribed by him. The governor shall have authority to employ or appoint special counsel to institute and prosecute, or assist the attorney general in instituting and prosecuting, proceedings provided for in this section. *Acts 1907, sp. sess., no. 21, sec. 4.*

It shall be the duty of the attorney general to represent commission in any and all legal proceedings which it may have the power to institute, and which, pursuant to such power, it has instituted, and in all legal proceedings against it, and to institute such legal proceedings as commission may request or deem necessary (provided it has the power to institute them), to enforce the provisions of this act or compel obedience to and observance of the same by any person, firm, company or corporation upon

which such obedience or observance is imposed. And the governor is hereby authorized and empowered to employ any special counsel to institute or defend such legal proceedings, or to assist the attorney general therein, and to contract with said special counsel concerning a reasonable compensation for his or their services, which compensation shall be paid out of the state treasury on a warrant drawn by the auditor on the state treasurer upon the approval of the governor. No expenses incurred in any way in any such proceedings or suits or in any investigation by commission shall be deemed a part of the office expenses of commission within the meaning of section five of this act. *Same, sec. 5.*

If any common carrier subject to the supervision and control of commission establishing any rule, regulation, practice or service, or establishing any rate for the transportation of property or passengers, or if any such common carrier affected by any rate established by statute or made the maximum rate by statute, shall fail or refuse to comply with the requirements of commission with respect to said order, and said failure and refusal to put in force said statutory rate or said rate made the maximum rate by statute, and such failure or refusal shall continue for 20 days, commission shall have power to apply in its own name to any court of competent jurisdiction, or to any judge thereof, in any county or circuit in which such common carrier may have an agent, for a writ of mandamus or injunction, or to institute in such court any appropriate proceeding to compel such common carrier to put in force such order or such rate and observe and obey the same. Either party shall have the right to appeal to the supreme court from the judgment of decree or the trial court in such proceedings, said appeal to be taken within 30 days from the rendition of such judgment or decree. If the common carrier desires to take an appeal from the judgment or decree of the trial court and to supersede the same, it shall give, in addition to security for costs, a bond with two sureties, to be approved by the clerk or register of the court, which bond shall be in the amount and with the conditions to be prescribed by the judge or chancellor, and the same shall be payable as prescribed by him. *Acts 1909, sp. sess., no. 26, sec. 1.*

ARIZONA

The attorney general of the state shall be the attorney of commission. It shall be the duty of attorney general to represent and appear for the people of the state and commission in all actions and proceedings involving any question under this act or under any order or act of commission,

and, if properly directed to do so by commission to intervene, if possible, in any action or proceeding in which any such question is involved; to commence, prosecute and expedite the final determination of all actions and proceedings directed or authorized by commission; to advise commission and each commissioner, when so requested, in regard to all matters in connection with the powers and duties of commission and the members thereof; and generally to perform all duties and services appertaining to commission, which commission may require of him.

Sess. Laws 1912, ch. 90, sec. 4.

It is hereby made the duty of commission to see that the provisions of the constitution and statutes of this state affecting public service corporations, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected, and to this end it may sue in the name of the people of the state. Upon the request of commission, it shall be the duty of the attorney general or the county attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute actions or proceedings for the enforcement of the provisions of the constitution and statutes of this state affecting public service corporations and for the punishment of all violations thereof. *Same, sec. 72.*

Whenever commission shall be of the opinion that any public service corporation is failing or omitting or about to fail or omit, to do anything required of it by law, or by any order, decision, rule, direction or requirement of commission, or is doing anything or about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order, decision, rule, direction or requirement of commission, it shall direct the attorney general of the state to commence an action or proceeding in the superior court in and for the county, in which the cause or some part thereof, arose, or in which the corporation complained of, if any, has its principal place of business or an agent for any purpose, or in which the person, if any, complained of resides, or in which commission has its domicile, in the name of the people of the state, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation or threatened viola-

tion complained of and praying for appropriate relief by way of mandamus or injunction. *Same, sec. 75.*

It shall thereupon be the duty of the court to specify a time, not exceeding 20 days after the service of the copy of the petition, within which the public service corporation complained of must answer the petition, and in the meantime said public service corporation may be restrained. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in
3926 order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect, subject to the provisions of this act, as appeals are taken from judgments of the superior court in other actions for mandamus or injunctions. *Same.*

See also par. 3494.

ARKANSAS In all litigation in which the commission is now involved, or in which they may hereafter become involved,
3926 they shall receive upon application, the service of the attorney general of this state, and he shall also represent them whenever called upon to do so, before the interstate commerce commission.
Acts 1907, no. 422, sec. 5.

Commission shall on complaint enforce by necessary order
3927 or orders, all laws pertaining to railroads and express companies.
Same, sec. 6.

CALIFORNIA A provision identical with par. 3923, except
3923 that "public service corporation" reads "public utility." *Stats. 1911, 1st. ex. sess., ch. 14, sec. 72.*

Whenever commission shall be of the opinion that any public utility is failing or omitting or about to fail or omit, to do anything required of it by law, or by any order, decision, rule, direction or requirement of commission, or is doing anything or about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order, decision, rule, direction or requirement of commission, it shall direct the attorney of commission to commence an action or

proceeding in the superior court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides, in the name of the people of the state, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney of commission shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding 20 days after the service of the copy of the petition within which the public utility complained of must answer the petition, and in the meantime said public utility may be restrained. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken to the supreme court for such final judgment in the same manner and with the same effect, subject to the provisions of this act, as appeals are taken from judgments of the superior court in other actions for mandamus or injunction. *Same, sec. 75.*

See also par. 3498.

COLORADO

Commission is hereby authorized and required to execute and enforce the provisions of this act, and upon the request of commission it shall be the duty of the attorney general or the district attorney in the district wherein the cause of action arose, under the direction of the attorney general, to institute all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof. *Laws 1910, sp. sess., ch. 5, sec. 12.*

The district courts of this state shall have jurisdiction, upon the application of the attorney general, who shall act upon the request of commission, alleging the failure to comply with or the violation of any of the provisions of this act, to issue a writ or writs of mandamus, commanding such common carrier, or offend-

ing shipper, consignee or applicant for cars, to comply with the provisions of this act, or any of them. *Same, sec. 19.*

If any carrier fails or neglects to obey any order of commission other than for the payment of money, while the same is in effect, any party injured thereby, or commission in its own name, may apply to the district court of the district where such carrier has its principal operating office or in which the violation or disobedience of such order shall happen, for an enforcement of said order. Such application shall be by petition, which shall state the substance of the order and the respect in which the carrier has failed of obedience, and shall be served upon the carrier in such manner as the court may direct, and the court shall prosecute such inquiries and make such investigations through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served and that the carrier has not appealed therefrom and is in obedience of the same, the court shall enforce obedience to such order by writ
2932 of injunction or other process, mandatory or otherwise, to restrain such carrier, its officers, agents or representatives, from further disobedience of same; and in the enforcement of such process the courts shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus. Either party interested may have ten days within which to appeal to the supreme court of this state from the judgment, order or decree of the district court, but pending such appeal to the supreme court, the order or decree of the district court shall remain and be in full force, unless and until the same shall be superseded by an order of the supreme court; provided, that unless an adverse decision is rendered by said supreme court within 90 days of the date of the filing the said appeal in the supreme court, then the order made by commission shall take effect and be in force until set aside by the supreme court, unless the order of commission shall have been set aside or modified by the district court, and in such case the order of the district court shall supersede the order of the commission. *Same, sec. 20.*

CONNECTICUT The superior court, on application of commission or of the attorney general, may enforce by appropriate decree
2933 or process, any provision of this act or any proper order of commission rendered in pursuance of any such provision. *Pub. Acts, 1911, ch. 128, sec. 11.*

FLORIDA

Commission may at its discretion cause to be instituted in any court of competent jurisdiction in this state, by the attorney general, state attorney or special counsel, designated by them, in the name of the state, proceedings by or for mandamus, injunction, mandatory injunction, prohibition or procedendo, against any company or common carrier subject to the provisions of this act, or against any officer or officers, agent or agents thereof, to compel the observance of the provisions of this chapter, or any rule, rate or regulation of commission made thereunder, or to compel the accounting for and the refunding of any moneys exacted in violation of any of the provisions of this chapter. In all cases where any common carrier shall have become indebted or liable for damages to a large number of persons by reason of its failure to abide by or comply with the provisions of any rule, rate or regulation of commission, or by its violation of any provisions of this chapter, it shall be the duty of commission to demand of such common carrier by written notice served upon it a discovery of the names of all such persons and an accounting and payment to all such persons of all such indebtedness or damages, and if such common carrier shall refuse or shall fail to make such accounting and payment within 60 days after such notice shall have been served upon it, it shall be the duty of commission to institute a proceeding or proceedings by or for mandamus or mandatory injunction against such common carrier to compel the making of such accountings and payments, and in any such proceeding upon an adjudication against such common carrier there shall be taxed as costs and paid over to commission to be paid out by them, all such costs, attorney's fees and expenses of such proceedings as shall appear to the court reasonable under all the circumstances and necessary to effect such accounting and settlement without cost or expense to the state or to the claimants, and the courts shall make all such orders as may be necessary or advisable to secure an accounting and payment of costs and damages as full and complete as may appear to be practicable, and any money not paid over to the person to whom it shall be due within 30 days after such payment shall have been ordered made, shall be paid into the registry of the court to be disbursed to the proper person upon orders of the court. And commission is hereby given and granted full authority to do and perform any act or thing necessary to be done to effectually carry out and enforce the provisions and objects of this chapter. *Gen. Stats. 1906, sec. 2921.*

The writ of injunction shall lie and obtain in all cases of the

violation of any freight or passenger rate, or of any schedule of freight or passenger rates, or of any schedule of either, or of any failure or refusal to conform to or enforce, or put and keep the same, or any or either, in operation, by any railroad company or other common carrier, to prevent the violation of any such rate or schedule, and to compel any such railroad or common carrier to observe and put and keep in operation the same; and in case any issue shall arise upon the trial of any suit wherein such an injunction
3935 may be applied for as shall entitle either of the parties to a jury to try the same, then it shall be the duty of the judge upon the application for an injunction coming on to be heard, or being noticed for a hearing, to cause a sufficient number of jurors to be drawn from the jury box in his presence in the manner now prescribed by law, and to be subpoenaed to attend the hearing; provided, however, that any party desiring a jury hereunder shall file his demands for the same in writing at or before the hearing shall be entered upon, or shall be deemed to have waived a jury. Such jury shall be drawn and trial take place in the county where the cause is pending. *Same, sec. 2924.*

All suits instituted by commission through special counsel shall be conducted as now provided by law, and it shall be the
3936 duty of the attorney general or any state attorney to join in any such suit when requested to do so by commission. *Laws 1907, ch. 5620, sec. 2.*

ILLINOIS

It shall be the duty of commission to personally investigate and ascertain whether the provisions of this act are violated by any railroad corporation in this state, and to visit the various stations upon the lines of each railroad for that purpose, as often as practicable; and whenever the facts, in any manner ascertained by commission, shall, in their judgment warrant such prosecution, it shall be the duty of commission to immediately cause suits to be commenced and prosecuted against
3937 any railroad corporation which may violate the provisions of this act. Such suits and prosecutions may be instituted in any county in this state through or into which the line of the railroad corporation sued for violating this act may extend. And commission is hereby authorized, when the facts in the case presented to it shall, in its judgment, warrant the commencement of such action, to employ counsel to assist the attorney general in conducting such suit on behalf of the state. No such suit commenced by commission shall be dismissed, except commission and the attorney general shall consent thereto. *Revisal 1909, ch. 114, sec. 130.*

It shall be the duty of the attorney general and the state's attorney in any county, on the request of commissioners, to institute and prosecute any and all suits and proceedings which they or either of them shall be directed by said commissioners
2938 to institute and prosecute for a violation of this act or of any law of this state concerning railroad companies, other common carriers, or warehouses, the officers, employees, owners, operators or agents of any such companies, common carriers or warehouses. *Same, sec. 183.*

All actions or proceedings instituted by commission shall
2939 be brought in the name of the people of the state, and shall be prosecuted by the attorney general. *Same, sec. 200.*

See also pars. 525, 3505.

INDIANA

In addition to the power and authority given to commission to enforce this act and the other laws of this state as provided in this section, commission as additional remedy, is also given power and authority upon complaint filed by any person, firm, corporation, or association, or any mercantile, agricultural or manufacturing society, or any body politic
2940 or municipal organization, and after a hearing thereon, to enter an order requiring any such carrier to comply with the duty, obligations and requirements of this act, and all other laws of the state concerning the duties, obligations and requirements of such carriers in the performance of their duties to the public as common carriers. *Acts 1907, ch. 241, sec. 7(b), as amended by Acts 1911, ch. 185, sec. 1.*

Commission is hereby authorized and required to enforce this act, and all other laws of this state, the enforcement of which is devolved upon commission, and such other laws of this state as shall prescribe the duties and obligations and regulate the conduct of the carriers subject hereto in their dealings with the public and each other as common carriers of passengers and property in this state, and to enable commission so to do it is hereby given full power and authority to institute and prosecute in its name any appropriate action at law, or suit in equity, in any
2941 circuit or superior court of this state, against any such carrier to compel it to observe the requirements of this act, and all other laws of this state, and the orders of commission duly made pursuant to this act, or any other law of this state, and all orders and judgments of any court in this state made pursuant to this act; or to restrain any such carrier from the further continuance of any act or practice suffered or authorized by it in violation of

the provisions of this act, the other laws of this state, the orders commission, or of any court made pursuant to this act, and the costs and expenses of such proceedings shall be audited and approved by the auditor of state, and paid as provided in this act. *Same, sec. 17.*

See also pars. 2441, 3509, 3510, 3512.

IOWA

The district courts of this state shall have jurisdiction to enforce, by proper decrees, injunctions and orders, the rulings, orders and regulations affecting public rights, made or to be made by commission, such as are now, or may hereafter be, authorized to be made by them for the future direction and observance of railroads in this state. The proceedings therefor shall be by equitable action in the name of the state and shall be instituted by the attorney general, whenever advised by commission that any railway corporation, or person operating a line of road in this state, is violating and refusing to comply with any rule, order or regulation made by commission, and applicable to such railroad or person. It shall be the duty of the court in which any such cause shall be pending to require the issue to be made up at the first term of the court to which such cause is brought, which shall be the trial term, and to give the same precedence over other civil business. If the court shall find that such rule, regulation or order is reasonable and just, and that in refusing compliance therewith said railway company is failing and omitting the performance of any public duty or obligation the court shall decree a mandatory and perpetual injunction, compelling obedience to and compliance with such rule, order, or regulation by said railroad company, or other person, its officers, agents, servants and employees, and may grant such other relief as may be deemed just and proper. All violations of such decree shall render the company, persons, officers, agents, servants and employees who are in any manner instrumental in such violation, guilty of contempt of court, and the court may punish such contempt by a fine not exceeding \$1,000 for each offense, and may imprison the person guilty of contempt until he shall sufficiently purge himself therefrom. And such decree shall continue and remain in effect and be enforced until the rule, order or regulation shall be modified or vacated by the court. *Code, 1897, sec. 2119.*

All rules, orders and regulations affecting public rights, made or to be made by commission, such as are now, or may hereafter be, authorized to be made by them for the future direction and observance of railroads in this state, shall be in full force and effect

from and after the date fixed by commission for the taking effect
3943 of such rules, orders and regulations. If any railroad fails, neglects or refuses to comply with any rule, order or regulation made by commission within the time specified, it shall pay a penalty of \$50 for each and every day it fails, neglects or refuses to obey any rule, order or regulation so made to be recovered in any court having jurisdiction. *Same.*

Any railroad aggrieved at any rule, order or regulation made by commission may institute proceedings in any court of proper jurisdiction to have the rule, order or regulation complained of vacated, if found by the court after due trial, not to be reasonable,
3944 equitable or just, and if upon an appeal from any rule, order or regulation of commission the complaining railroad is successful in having such rule, order or regulation vacated, the aforesaid penalty shall be set aside; if unsuccessful, there shall be taxed as a part of the costs a reasonable attorney's fee for the attorney appearing in behalf of the state. *Same.*

The time for the taking effect of any rule, order or regulation affecting public rights, made by commission as provided herein, may, in its discretion, be extended, and said extension of time may be granted for the purpose of testing the legality thereof, upon application by any such aggrieved railroad showing reasonable grounds therefor, and that said application is made in good faith and not for the purpose of delay. When any railroad shall fail upon
3945 appeal to secure a vacation of the order from which it has appealed, it may apply to the court in which said appeal is finally adjudicated for an order remitting the penalty which has accrued during the pendency of the appeal and upon a satisfactory showing that the order appealed from was unreasonable or unjust, or that the power of the board to make the same was doubtful and that said appeal has been prosecuted in good faith and not for the purpose of delay, such court may remit the penalty that has accrued during the pendency of the appeal. *Same.*

Whenever a decree shall be entered against a railroad company or person under the preceding section, the court shall
3946 render judgment for costs and attorney's fees for counsel representing the state. *Same, sec. 2120.*

Whenever any common carrier shall violate or refuse or neglect to obey any lawful order or requirement of commission, it shall be the duty of commission, and lawful for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the district or superior court in

any county of this state in which the common carrier complained of has its principal office, or in any county through which its line of road passes or is operated, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents or servants, as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and, to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of commission shall be prima facie evidence of the matter therein, or in any order made by them, stated; and if it be made to appear to such court on such hearing, or on the report of any such person or persons, that the order or requirement of commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of commission, and enjoining obedience to the same, and in case of any disobedience of any writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue a writ of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and, if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise to pay any sum of money, not exceeding for each carrier or person in default the sum of \$1,000 for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunc-

tion or other proper process, mandatory or otherwise; and such moneys shall, upon order of the court, be paid into the treasury of the county in which the action was commenced, and one-half thereof shall be transferred by the county treasurer to the state treasury; and the payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court, saving to commission and any other party or person interested in the right of appeal to the supreme court of the state, under the same regulations, now provided by law in relation to appeals to said court as to security for such appeal, except that in no case shall security for such appeal be required when the same is taken by commission; but no appeal to said supreme court shall operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may in every such matter order the payment of such costs and attorney and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented, or be prosecuted by commission, or by its direction, it shall be the duty of the attorney general of the state to prosecute the same and in such prosecution he shall have the right to have the assistance of any county attorney of the county in which any such proceedings are instituted, and it is hereby made the duty of such county attorney to render such assistance; and the costs and expenses, on the part of commission, of any such prosecution shall be paid out of the appropriations for the expenses of commission.

Same, sec. 2137.

See also pars. 1463, 3511.

KANSAS Attorney general, when requested, shall give commission or attorney for commission such counsel and advice as it or attorney for commission may from time to time require, and it is hereby made his duty to aid and assist it and attorney for commission in all hearings, suits, and proceedings in which commission or attorney for commission may request his assistance. *Gen. Stats. 1909, sec. 7172.*

3948

In case any railroad company, or any such officer, agent, employe, or person, shall violate or shall refuse or fail to obey any order lawfully made by commission, any person aggrieved thereby may institute and prosecute mandamus proceedings in the supreme court, in the name of the state on the relation of such person, to compel compliance with and obedience to such

order; and in any case where in the opinion of commission the interest of the public requires it, commission shall require such proceeding to be brought, and such proceeding shall then be brought by the attorney general in the name of the state. The practice in such proceedings shall be as in other cases of mandamus, but the court may control the time of trial without regard to the time the issues are joined. Cases instituted under the provisions of this section may have precedence as to the time of hearing over all other classes of cases except criminal cases. The supreme court shall have discretionary authority to refer any of the issues in any such proceeding to a referee or referees to be appointed by the court for such hearing and findings and under such rule as the court may direct. In any hearing under the provisions of this section, the orders and determinations of commission shall be deemed prima facie evidence of the matters therein stated and found. In such action the court may direct 3949 the railroad company affected thereby to comply with any part of any rule, order or regulation of commission, and may hold any part of the same unreasonable, and refuse to enforce such part, without affecting the part found to be reasonable and just. Disobedience of any judgment, order or writ of the supreme court in any such proceedings shall be punished as in other cases of contempt. The proceedings in cases of contempt shall be summary in their nature, under such rules as the court shall adopt, and no jury trial shall be required or had therein. In addition to the general powers of the court to punish for contempt, the court shall have power to punish any refusal or failure to obey its orders, made under the provisions of this section, by a fine of not to exceed \$1,000 for each day after a day to be fixed by the court that such disobedience shall continue, or by imprisonment not exceeding one year, or by both such fine and imprisonment. In any proceeding instituted under the provisions of this section by the attorney general, the costs and expenses on the part of the plaintiff shall be paid out of the general fund of the state, upon approval by the governor, attorney general, and auditor of the state. The remedies provided by this section shall not be deemed to exclude or limit any other remedies provided in this act or existing in virtue of any other statutes or common law, but shall be additional thereto. *Gen. Stats. 1909, sec. 7227.*

In case any railroad company or corporation or any of its officers, agents or employes shall violate or shall refuse or fail to obey any order lawfully made by commission, any person or per-

sons, company or corporation aggrieved thereby may institute and prosecute mandamus proceedings in the district court of the proper county to compel compliance with and obedience to such order. The practice in such cases shall be as in other cases of mandamus, but the court may control the time of trial without regard to the time issues are joined. Cases instituted under the provisions of this section may have precedence as to time of hearing over all other classes of cases except criminal cases. In such action the court may direct the railroad company or corporation affected thereby to comply with any part of any order of the
2950 board, and may hold any part of the same unreasonable, and refuse to enforce such part, without affecting the part found to be reasonable and just. Disobedience of any judgment, order or writ of the district court in any such proceedings shall be punished as in other cases of contempt. In addition to the general powers of the court to punish for contempt, the court shall have power to punish any refusal or failure to obey its orders made under provisions of this section by a fine of not to exceed \$500 for each day after a day to be fixed by the court that such disobedience or failure shall continue, or by imprisonment in the county jail for not to exceed 30 days, or by both such fine and imprisonment. The remedies provided in this section shall not be deemed to exclude or limit any other remedies provided by this act or existing by virtue of any other statute or the common law, but shall be in addition thereto. *Same, sec. 7238.*

Commission may compel compliance with the provisions of this act and compel compliance with the orders of commission by
2951 proceeding in mandamus, injunction or other appropriate civil remedies, or by appropriate criminal proceedings in any court of competent jurisdiction. *Laws 1911, ch. 238, sec. 9.*

See also par. 3177.

KENTUCKY

Commission shall hear and determine complaints under sections 816, 817, and 818. Such complaints shall be made in writing, and they shall give the company complained of not less than ten days' notice of the time and place of the hearing of the same. They shall hear and reduce to writing all evidence adduced by the parties, and render such award as may be proper. If the award of commission be not satisfied within ten days after the same is rendered, the chairman shall file a copy of said award and the evidence heard, in the office of the clerk of the circuit court of the county, which, under the code of practice, would have jurisdiction of said controversy, and the clerk of

said court shall enter the same on the docket for trial; and summons shall be issued, as in other cases, against the party against whom the award shall have been rendered, requiring said party to appear in the court, within the time allowed in ordinary cases, and show cause why said award shall not be satisfied. If such party fails to appear, judgment shall be rendered by default, and the same proceedings had thereon as in other ordinary cases. If a trial is demanded the case shall be tried, in all respects, as other ordinary cases in which the same amount is involved, except that no evidence shall be introduced by either party except that heard by commission, except such as the court shall be satisfied, by sworn testimony, could not have been produced before commission by the exercise of reasonable diligence; the judgment and proceedings thereon shall be the same as in other ordinary cases. *Carroll's Stats. 1909, sec. 829.*

See also par. 536.

MAINE

See pars. 2581, 2582.

MARYLAND

Whenever commission shall be of the opinion that a common carrier, railroad corporation or street railroad corporation, or other corporation, subject to its supervision, is failing or omitting, or about to fail or omit to do anything required of it by law, or by order of commission, or is doing anything, or about to do anything, or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order of commission, it shall direct the general counsel to commission to commence an action or proceeding before one of the judges of the supreme bench of Baltimore City or in the circuit court of the county in which such corporation has its principal place of business, or carries on its business, in the name of commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. Counsel to commission shall thereupon begin such action or proceeding by a petition to and in any of the said courts, as the case may require, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of the petition, within which the common carrier, railroad corporation or street railroad corporation complained of must answer the petition. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court may direct, without other or formal plead-

ings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel to commission. The final judgment in any such action or proceeding shall either dismiss the action or proceedings or direct that a writ of mandamus or an injunction issue, as prayed for in the petition or in such modified or other forms as the court may determine will afford the appropriate relief. *Laws 1910, ch. 180, sec. 28.*

Whenever commission shall be of the opinion that a gas or electrical corporation is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order of commission, or is doing anything or about to permit anything to be done, contrary to or in violation of law or of any order of commission, it shall direct counsel to commission to commence an action or proceeding before one of the judges of the supreme bench of Baltimore City or in one of the circuit courts of the counties, in the name of commission, for the purpose of having such violation stopped and prevented either by mandamus or injunction. Counsel to commission shall thereupon begin such action or proceeding by a petition in any of said courts, as the case may require, alleging the violation or the threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition within which the gas or electrical corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such other person or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment or writs effective may be joined as parties upon application of counsel to commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding, or direct that a writ of mandamus or an injunction issue as prayed for in the petition, or such modified or other form as the court may determine will afford the appropriate relief. *Same, sec. 38.*

See also par. 3516.

MASSACHUSETTS If a corporation or company which is engaged in the manufacture and sale of gas or electricity for light or heat violates or neglects to comply with the provisions of law, or refuses or neglects to comply with any lawful order of commission, commission shall give notice thereof in writing to such corporation or company, and to the attorney general for his action. *Rev. Laws 1902, ch. 121, sec. 8.*¹

The supreme judicial court or the superior court shall have jurisdiction in equity, upon application of commission, to enforce all lawful orders of commission and all provisions of law relative to cities, towns, corporations or persons engaged in the manufacture and sale of gas or electricity for light or heat. *Same, sec. 9.*

If a company engaged in the transmission of intelligence by electricity violates or neglects in any respect to comply with the provisions of any law, commission shall give due notice thereof, in writing, to such company and to the attorney general, who shall take such proceedings thereon as he may deem expedient. *Acts 1906, ch. 433, sec. 6.*

The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of commission, to enforce all lawful orders of commission and all provisions of law herein contained. *Same, sec. 7.*

If, in the judgment of commission, a railroad corporation or street railroad company has violated a law, or neglects in any respect to comply with the terms of the act by which it was created or with the provisions of any law of this commonwealth, it shall give notice thereof in writing to such corporation or company; and thereafter, if such violation or neglect continues, shall forthwith present the facts to the attorney general for his action. *Acts 1906, ch. 463, pt. i, sec. 8.*

If, in the judgment of commission a street railway company has violated any law relative to such company, and after notice in writing from commission, continues such violation, or refuses or neglects to make returns as required by law, or to amend the same when lawfully required so to do, said commission shall forthwith present the facts to the attorney general for his action. *Same, pt. iii, sec. 156.*

The supreme judicial court or the superior court shall have jurisdiction in equity, upon the petition of a street railway company, or of the board of aldermen of a city or the selectmen of a town in which the street railway is located, or of any interested

¹ See footnote 1, par. 276.

party, to compel the observance of and to restrain the violation
3961 of all laws which govern street railway companies, and of all
orders, rules and regulations made in accordance with the provisions of this chapter by the board of aldermen of a city, the selectmen of a town or commission, and to review, annul, modify or amend the rulings of any state board or commission relative to street railways as law and justice may require. *Same, sec. 157.*

The supreme judicial court or the superior court shall have jurisdiction in equity upon the application of the board of gas and electric light commissioners, or of the mayor of any city or the selectmen of any town in which electricity is distributed and sold as aforesaid, to compel the observance and to restrain the violation
3962 tion of the provisions of this act, of the general laws relating to the companies hereinbefore described and of all lawful orders and decisions, terms, limitations and restrictions made or imposed by commission or by the mayor and aldermen of a city or the selectmen of a town in pursuance of the provisions of this act. *Acts 1908, ch. 617, sec. 3.*

See also pars. 3240, 3252, 3255.

MICHIGAN

Commission shall inquire into any neglect or violation of the laws of this state by any common carrier doing business therein, or by its officers, agents or employes thereof, and shall have the power and it shall be its duty to enforce the provisions of this act as well as all other laws relating to common carriers and report all violations thereof to the attorney general. Upon the request of commission it shall be the duty of the attorney general, or the prosecuting attorney, of the proper county, to aid in any investigation, prosecution, hearing or trial had under the provisions of this act, and to institute and prosecute all
3963 necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to common carriers, and for the punishment of all violations thereof. Any forfeiture and penalty herein provided shall be paid to the state treasurer and shall be recovered and suit therefor shall be brought in the name of the state in the circuit court of any county having jurisdiction of the defendants. The attorney general of Michigan, or any prosecuting attorney selected by commission in any county where such action is pending, shall be the counsel in any proceeding, investigation, hearing or trial prosecuted or defended by commission. *Pub. Acts 1909, no. 300, sec. 41.*

In addition to all the other remedies provided by this act for the prevention and punishment of any and all violations of

the provisions hereof and of all orders of commission, the commission, and likewise any person, firm or corporation interested, may compel compliance with the provisions of this act and with the orders of commission by proceedings in mandamus, injunction or by other appropriate civil remedies. *Same, sec. 47.*

See also par. 3521.

MINNESOTA

The attorney general shall be ex officio attorney for commission. He shall institute and prosecute all actions which commission shall order brought, and shall render commission all advice, counsel, and assistance necessary for the proper performance of their duties. The county attorney of any county in which an action is pending, prosecuted or defended by the direction of commission shall aid in the prosecution or defense thereof until final determination, when requested by commission. When necessary, commission may employ additional counsel to assist the attorney general. *Rev. Laws, 1905, sec. 1960.*

Whenever any such carrier or warehouseman shall fail to obey any law of the state or any order of commission, commission or any party interested may, upon verified petition alleging such failure, apply to the district court of the county in which such carrier or warehouseman has a principal office, or into which a line of railroad of such carrier extends, for the enforcement of such law or order or other appropriate relief. The court upon such notice as it may direct shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process or order of the court in addition to other penalties or forfeitures provided by law. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as to security as the court may direct. *Same, sec. 1975.*

See also pars. 380, 3524.

MISSISSIPPI

Commission may apply to the circuit or chancery court, by proper proceeding, for aid in the enforcement of obedience to its process, and to compel compliance with the law and its lawful orders, decisions, and determinations; and said courts shall have jurisdiction to grant aid and relief in such cases, subject to the right of appeal to the supreme court by the party

aggrieved. The attorney general, or the district attorney in his district, shall institute such proceedings in the name of commission. *Code 1906, sec. 4838.*

MISSOURI

Commission is hereby authorized and required to enforce the provisions of sections 3108 to 3119 inclusive; provided, however, that this provision shall not be so construed as to prevent any shipper or shippers, consignee or consignees from instituting before any court of competent jurisdiction in this state proper proceedings to enforce said sections, but a right of action to enforce the provisions of said sections in addition to the right to recover any of the damages, penalties, forfeitures, demurrage or storage charges provided for in said sections, is hereby given to such shipper or shippers, consignee or consignees. *Rev. Stats. 1909, sec. 3117.*

It shall be the duty of the railroad commissioners of this state to see that the provisions of sections 3179-3207 inclusive, are enforced. *Same, sec. 3194.*

Where the complaint involves either a private or a public question, and commission has made a lawful order or requirement in relation thereto, and where such common carrier, or the proper officer, agent or employe thereof, shall violate, refuse or neglect to obey any such order or requirement, it shall be lawful for commission, or any person or company interested in such order or requirement to apply in a summary way, by petition, to any circuit court at any county in this state into or through which the line of railway of the said common carrier enters or runs, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable. And such notice may be served on such common carrier, its officers, agents or servants in such manner as the court may direct; and said court shall proceed to hear and determine the matter speedily in such manner as to do justice in the premises; and to this end said court shall have power, if it thinks fit, to direct, and prosecute in such mode and by such persons as it may appoint, all such inquiries as may seem needful to enable it to form a just judgment in the matter of such petition. On such hearing the report of commission shall be prima facie evidence of the matter therein stated; and if it be made to appear to the court on such hearing, or on report of such persons appointed as aforesaid, that the lawful orders or requirements of commission drawn in question have been violated or disobeyed, it shall

be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation of such order or requirement of commission, and enjoin obedience to the same.

3970 If such court shall hold and decide that any order of commission involved in such proceeding was not a lawful order, said court shall, without any reference to the regularity or legality of the proceedings of commission or of the order thereof, proceed to make such order as the commission should have made, and to enforce said order by the process of said court and to enforce and collect the forfeitures and penalties herein provided in all respects according to the provisions of sections 3179 to 3207. And in case of any disobedience of any such injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or other proper process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier; and if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other process, mandatory or otherwise; and said court may make an order directing such common carrier or other person so disobeying such writ of injunction or other process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of \$100 per day, for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise, and such money shall be payable to the school fund of the county in which such proceeding is pending; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by final decree in personam in such courts. *Rev. Stats. 1909, sec. 3201.*

The commission is hereby required to take jurisdiction of all 3971 violations of the provisions of sections 3208 to 3210 inclusive. *Same, sec. 3210.*

See also pars. 809, 970, 3529.

MONTANA The attorney general is hereby constituted the attorney and counselor of commission, and the county attorney of every county in the state shall, on the request and at the direction of the attorney general, assist in all cases,

3973 proceedings and investigations undertaken by commission under this law, in his own county; provided, that commission shall have power and authority to employ special counsel, with the consent and approval of the attorney general, to assist in any case, matter, proceeding or investigation instituted under this law. *Rev. Codes 1907, sec. 4383.*

It is hereby made the duty of the attorney general upon direction of commission, and of the county attorney of each **3973** county in the state upon direction of the attorney general, to institute and prosecute, and to appear and defend, any action or proceeding arising under the provisions of this law. *Same.*

The district court shall have jurisdiction to enforce by proper decree, injunction or order, the rates, classifications, rulings, orders and regulations made or established by commission. The proceeding therefor shall be by equitable action in the name of the state, and shall be instituted by the attorney general or county attorney, whenever advised by commission that any railroad is violating or refusing to comply with any rule, order, rate, classification or regulation made by commission and applicable to such railroad. Such proceedings shall have the precedence over all other business in such courts, except criminal business. In any action the burden of proof shall rest upon the defendant, who must show by clear and satisfactory evidence that the rule, order, regulation, rate, or classification involved is unreasonable and unjust as to them. If in such action, it be the decision of the court that the rule, regulation, order, rate or classification is not so unreasonable or unjust, and that in refusing compliance therewith the railroad is thereby failing or omitting the performance of any duty, debt, or obligation, the **3974** court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with the rule, regulation, order, rate or classification by the defendant, and its officers, agents, servants and employes, and may grant such other relief as may be deemed just and proper. Any violation of such decree shall render the defendant and officer, agent, servant or servants or employe of the defendant, who is in any manner instrumental in such violation, guilty of contempt, and shall be punishable by a fine not exceeding \$1,000 for each offense, or by imprisonment of the person guilty of contempt until he shall sufficiently purge himself therefrom, and such decree shall continue and remain in effect and be in force until the rule, regulation, order, rate or classification shall be modified or vacated by the board. Pro-

vided, however, that nothing herein contained shall be construed to deprive either party to such proceedings of the right to trial by jury, as provided by the seventh amendment to the constitution of the United States, or as provided by the constitution of this state. An appeal shall lie to the supreme court from the decree in such action, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court. *Same, sec. 4387.*

Commission shall see that the provisions of this act and all laws of this state concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties
3976 due the state therefor recovered and collected. Commission shall report all such violations, with the facts in their possession, to the attorney general or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings. *Same, sec. 4397.*

See also par. 3532.

NEBRASKA

Commission may enforce the provisions of this act and may hear and determine complaints for violation of this
3976 act to the same extent and in the same manner as heretofore provided by law in other cases. *Cobbey's Annot. Stats. 1909, sec. 10558 x 2.*

Whenever any railroad company or common carrier shall violate or refuse or neglect to obey any order or orders of commission, or any company or person interested in such orders, may apply in a summary way, by petition, to the district court of the county in which the violation or disobedience of such order or
3977 orders shall happen, alleging such violation or disobedience as the case may be; and the said court shall have power to hear and determine the matter, on such notice to the railway company or common carrier complained of, as the court shall deem reasonable; and such notice may be served on such railway company or common carrier, its officers, agents or servants, as the court shall direct. *Same, sec. 10659.*

Said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity but in such manner as to do justice in the premises; and to this end, such court shall have power, if it deem proper, to direct and prosecute, in such manner and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and if it be made to

appear to such court on such hearing or on the report of any such person or persons, that the order or orders of commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process, mandatory or otherwise, to restrain such railway company or common carrier, and its owner, directors, officers, agents, employes, lessees, trustees, or receivers or representatives upon whom the duty may devolve or through whose agency said order or orders are to be carried out, from further continuing such violation or disobedience of said order or orders, and enjoining obedience to the same, and in case of any disobedience of any such writ or injunction, or other proper process, mandatory or otherwise, said railway company or common carrier, and its owners, directors, officers, agents, employes, lessees, trustees, or receivers or representatives, to whom said writ of injunction or other process, mandatory or otherwise was directed, shall be guilty of contempt of court, and it shall be lawful for such court to issue a writ of attachment, or other process of said court, incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against said railway company or common carrier, to pay any sum of money, not exceeding for each railway company or common carrier, the sum of \$1,000 for every day, after a day to be named in the order, that said railway company or common carrier shall fail to obey such injunction, or other proper process, mandatory or otherwise, and said owners, directors, officers, agents, employes, lessees, trustees, or receivers or representatives, upon whom the duty may devolve or through whose agency said order or orders are to be carried out, upon failure so to do shall be deemed guilty of misdemeanor and upon conviction thereof shall be imprisoned in the county jail not less than ten days nor more than 30 days. Said moneys shall, when paid, be disposed of according to law and the payment thereof, may without prejudice to any other mode of recovering the same, be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court, saving to commission and to any other party or person interested therein, the right to appeal to the supreme court under the same rules now provided by law in relation to appeals to said court as to security for such appeal, except that in no case shall security for such appeal be required when the same is taken by commission. *Same.*

Whenever any such petition shall be filed or presented, or

be prosecuted by commission, or by their direction, it shall be
2979 the duty of the attorney general of the state to prosecute the
same, and the costs and expenses, on the part of commission, of
any such prosecution shall be paid out of the appropriations for
the expenses of commission. *Same, sec. 10659(b).*

See also par. 1481.

NEVADA

Commission shall inquire into any neglect or
violation of the laws of this state by any railroad corporation
hereinbefore defined doing business therein, or by the officers,
agents, or employes thereof, or by any person operating a rail-
road, and shall have the power and it shall be its duty to enforce
the provisions of this act as well as all other laws relating to rail-
roads and report all violations thereof to the attorney general;
upon request of commission it shall be the duty of the attorney
general or the prosecuting attorney of the proper, or any county
3990 to aid in any investigation, prosecution, hearing or trial had under
the provisions of this act, and to institute and prosecute all nec-
essary actions or proceedings for the enforcement of this act and
all other laws of this state relating to railroads and for the pun-
ishment of all violations thereof. Any forfeiture or penalty
herein provided shall be recovered and suit thereon shall be
brought in the name of the state in the district court of any coun-
ty having jurisdiction of the defendant. The attorney general
shall be the counsel in any proceedings, investigation, hearing or
trial prosecuted or defended by commission or any prosecuting
attorney selected by commission, or other special counsel fur-
nished commission, in any county where such action is pending.
Stats. 1907, ch. 44, sec. 31.

In addition to all the other remedies provided by this act for
the prevention and punishment of any and all violations as to
3981 the provisions hereof, and all orders of commission, commission
can compel compliance with the provisions of this act and of the
orders of commission by proceedings in mandamus, injunction
or by other civil remedies. *Same, sec. 35.*

Commission shall inquire into any neglect or violations of
the laws of this state by any such public utility as hereinbefore
defined, doing business therein, or by the officers, agents, or em-
ployes thereof, and shall have the power, and it shall be its duty,
to enforce the provisions of this act, and report all violations
3982 thereof to the attorney general; upon the request of commission
it shall be the duty of attorney general, or prosecuting attorney
of the proper, or any county, to aid in any investigations, prose-

cutions, hearing or trial, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act. *Stats. 1911, ch. 162, sec. 24.*

In addition to all the other remedies provided by this act for the prevention and punishment of any and all violations of **3983** the provisions thereof, and all orders of commission, commission may compel compliance with the provisions of this act and of the orders of commission by proceedings in mandamus, injunction or by other civil remedies. *Same, sec. 31.*

See also par. 3535.

NEW HAMPSHIRE Whenever commission shall be of opinion that a railroad corporation or public utility is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order of commission, or is doing anything, or about to do anything, or permitting anything or about to permit anything to be done contrary to or in violation of law or of any order of commission it shall have authority to lay the facts before the attorney general, and to direct him immediately to begin an action in the name of the state praying for appropriate relief by mandamus or injunction or otherwise. Upon the beginning of such suit it shall be the duty of the court to specify the time not exceeding **20** days after service of a copy of the petition within which the **3984** defendant complained of must answer the petition. In case of default in answer or after answer, the court shall immediately make inquiry into the facts and circumstances in such matter as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel for the state. The final judgment in any such action or proceeding shall either dismiss the action or proceeding, or direct that a writ of mandamus or an injunction or other appropriate process shall issue as prayed for in the petition, or in such modified or other form as the court may determine will afford appropriate relief. *Laws 1911, ch. 164, sec. 16(a).*

See also par. 3538.

NEW JERSEY *See par. 3540.*

NEW MEXICO *See par. 3542.*

NEW YORK Whenever either commission shall be of opinion that a common carrier, railroad corporation or street railroad

corporation subject to its supervision is failing or omitting or about to fail or omit to do anything required of it by law or by order of commission, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order of commission, it shall direct counsel to commission to commence an action or proceeding in the supreme court of the state in the name of commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunctions. Counsel to commission shall thereupon begin such action or proceeding by a petition to the supreme court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the common carrier, railroad corporation or street railroad corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel to commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief. *Laws 1910, ch. 480, sec. 57.*

Whenever either commission shall be of opinion that a gas corporation, electrical corporation or municipality within its jurisdiction is failing or omitting or about to fail or omit to do anything required of it by law or by order of commission or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order of commission, it shall direct counsel to commission to commence an action or proceeding in the supreme court of the state in the name of commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunction. Counsel to commission shall thereupon begin such action or proceeding by a petition to the supreme court alleging the violation complained

of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time not exceeding 20 days after service of a copy of the petition within which the gas corporation, electrical corporation or municipality complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations, as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel to commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief. *Same, sec. 74.*

Whenever commission shall be of opinion that a telegraph or telephone corporation subject to its supervision is failing or omitting or about to fail or omit to do anything required of it by law or by order, direction or requirement of commission authorized by this chapter or is doing anything or about to do anything or permitting anything to be done contrary to or in violation of law or of any order, direction or requirement of commission authorized by this chapter, it shall direct counsel to commission to commence an action or proceeding in the supreme court of the state in the name of the people of the state on the relation of commission for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. Counsel to commission shall thereupon begin such action or proceeding by a petition to the supreme court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the telegraph or telephone corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs

effective may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified form as the court may determine will afford appropriate relief. *Same, sec. 103.*

See also pars. 2894, 2899, 3546, 3547.

NORTH CAROLINA If no appeal is taken from an order or judgment of commission within the time prescribed by the law, but the corporation affected thereby fails to put said order in operation, commission may apply to the judge riding the superior court district which embraces Wake County, or to the resident judge of said district at chambers, upon ten days' notice, for a peremptory
3988 mandamus upon said corporation for the putting in force of said judgment or order; and if said judge shall find that the order of commission was valid and within the scope of its powers, he shall issue such peremptory mandamus. An appeal shall lie to the supreme court in behalf of commission, or the defendant corporation, from the refusal or the granting of such peremptory mandamus. *Pell's Revisal 1908, sec. 1081.*

Commission, whenever in its judgment any corporation has violated any law, shall give notice thereof in writing to such
3989 corporation, and, if the violation or neglect is continued after such notice shall forthwith present the facts to the attorney general, who shall take such proceedings thereon as he may deem expedient. *Same, sec. 1113.*

NORTH DAKOTA The attorney general of the state shall be ex-officio attorney for commission and shall give it such counsel and advice as it may from time to time require; and he shall institute and prosecute any actions which commission may deem it proper and expedient to prosecute; and he shall render commission all counsel, advice and assistance necessary to carry out the provisions of any law of this state according to the true intent and meaning thereof. It shall also be the duty of the
3990 state's attorney in every county on request of commission to institute and prosecute and to appear and defend for commission in any and all actions and proceedings which he shall be requested by commission to institute and prosecute and to appear in all actions and proceedings to which commission is a party. Commission shall have power to employ additional counsel to assist such attorney general or state's attorney, when in its

judgment the exigencies of the case so require. The fee of such additional counsel shall be determined by the governor and paid by the state. *Rev. Codes 1905, sec. 370.*

District courts of this state shall have jurisdiction to enforce, by proper decrees, injunctions and orders, the reasonable rulings, orders and regulations affecting public right, made or to be made by commission, such as are now, or may hereafter be authorized to be made by them for the future direction and observance of railroads, railroad corporations or common carriers in this state. The proceedings shall be by equitable action in the name of the state, and shall be instituted by the attorney general, whenever advised by commission that any railroad, railroad corporation or common carrier is violating and refusing to comply with any rule, order or regulation made by commission, and applicable to such railroad, railroad corporation or common carrier. It shall be the duty of the court in which any cause shall be pending to require the issues to be made up at the first term of the court to which the cause is brought which shall be the trial term, and to give the same precedence over other civil business. If the court shall find that
2991 such passenger fare, freight or express rate, rule, regulation or order is reasonable and just, and that in refusing compliance therewith said railroad company, railroad corporation or common carrier is failing and omitting the performance of any public duty or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with such rule, fare, rate, order or regulation by said railroad, railroad corporation or common carrier or its officers, agents, servants and employes and may grant such other relief as may be deemed just and proper with costs. All violations of such decree shall render the company, person, officers, agents, servants and employes, who are in any manner instrumental in such violation, guilty of contempt of court, and the court may punish such contempt by fine not exceeding \$1,000 for each offense, or may imprison the person guilty of contempt until he shall sufficiently purge himself therefrom. And such decree shall continue and remain in effect and be enforced until the rule, fare, rate, order or regulation shall be modified or vacated by commission.
Same, sec. 4347.

Whenever any railroad, railroad corporation or common carrier, subject to the provisions of this article shall violate or refuse or neglect to obey any lawful order as to passenger, freight, or

property rates or fares, or as to any requirement of commission, it shall be the duty of commission and lawful for any company or person interested in such order or requirement, to apply in a summary way by petition to the district court in any county of this state in which the railroad, railroad corporation or common carrier complained of has its principal office, or in any county through which its line or road passes or is operated, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be. *Same, sec. 4358.*

The said court shall have power to hear and determine the matter, on such notice to the party complained of as the court shall deem reasonable; and such notice may be served on such party, his or its officers, agents or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful, to enable it to form a just judgment in the matter of such petition; and on such hearing the report of commission shall be prima facie evidence of the matter therein, or in any order made by them stated. *Same, sec. 4359.*

If it be made to appear to such court on such hearing, or on the report of any such person or persons that the order or requirement of commission drawn in the question, has been violated or disobeyed, it shall be the duty of such court to issue a writ or injunction, or other proper process, mandatory or otherwise, to restrain such railroad, railroad corporation or common carrier from further continuing such violation or disobedience of such order or requirement of commission and enjoining obedience to the same and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such courts to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such railroad, railroad corporation or common carrier or against one or more of the directors, officers or agents of the same or against any owner, lessee, trustee, receiver or other person failing to obey such writ, writ of injunction or other proper process,

mandatory or otherwise; and said court may, if it shall think fit, make an order directing such railroad, railroad corporation, or common carrier or other person so disobeying such writ of injunction or other process, mandatory or otherwise, to pay such sum of money not exceeding for each corporation, carrier or person in default, the sum of \$1,000 for every day after a day to be named in the order that such corporation, carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall, upon the order of the court, be paid into the treasury of the county in which the action was commenced, and one-half thereof shall be transferred by the county treasurer to the state treasury and the payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court saving to commission and any other party or person interested the right to appeal to the supreme court of the state under the same regulations now provided by law in relation to appeals to said court as to security for such appeal, except that in no case shall security for such appeal be required when the same is taken by commission; but no appeal to said supreme court shall operate to stay or supersede the order of the court, or the execution of any writ or process thereon; and such court may in every such matter order the payment of such costs and attorney fees as shall be deemed reasonable. *Same, sec. 4360.*

Whenever any such petition shall be filed or presented, or be prosecuted by the said commissioners, or by their direction, it shall be the duty of the attorney general of the state to prosecute the same, and in such prosecution he shall have the right to have the assistance of any state's attorney of the county in which any such proceedings are instituted, and it is hereby made the duty of any such state's attorney to render such assistance; and the costs and expenses on the part of said commissioners of any such prosecution or proceeding in court shall be paid out of the general fund of the state under the approval of the attorney general, governor, and the state auditor. *Same, sec. 4361.*

See also pars. 557, 1497, 3553.

OHIO

Commission shall inquire into any neglect or violation of the laws of this state by a railroad doing business in this state, by its officers, agents or employees or by any person

3996 operating a railroad. It shall enforce the provisions of this chapter, as well as all other laws relating to railroads and report violations thereof to the attorney general. *Code 1910, sec. 576.*

Upon request of commission the attorney general or the prosecuting attorney of the proper county shall aid in an investigation, prosecution, hearing or trial had under the provisions of this 3997 chapter, and shall institute and prosecute necessary actions or proceedings for the enforcement of such provisions and of other laws of this state relating to railroads and for the punishment of all violations thereof. *Same, sec. 577.*

In addition to the other remedies provided in this chapter for the prevention and punishment of violations of the provisions 3998 thereof and orders of commission, commission may compel compliance with such provisions and its orders by proceedings in mandamus, injunction or by other appropriate civil remedies. *Same, sec. 583.*

Whenever commission shall be of the opinion that any public utility or railroad has failed, omitted or neglected to obey any order made with respect thereto, or is about to fail or neglect so to do, or is permitting anything, or about to permit anything contrary to, or in violation of law or an order of commission, duly authorized under the provisions of this act, the attorney general, 3999 upon the request of commission, shall commence and prosecute such action, actions, or proceedings in mandamus or by injunction in the name of the state, as may be directed by commission, against such public utility or railroad, alleging the violation complained of and praying for proper relief, and in such case the court may make such order as may be proper in the premises. *Laws 1911, no. 325, sec. 70.*

See also pars. 439, 3556.

OKLAHOMA It shall be the duty of the attorney general to prosecute all proceedings instituted under the provisions of 4000 this act for the violation of any of the orders of commission to final judgment. *Sess. Laws 1908, ch. 18, art. iii, sec. 9.*

OREGON Commission shall inquire into any neglect or violation of the laws of this state by any railroad corporation, or by the officers, agents or employees thereof, or by any person operating a railroad, and shall have the power, and it shall be its duty to enforce the provisions of this act as well as all other laws relating to railroads and report all the violations thereof to the attorney general; upon the request of commission it shall be the

duty of attorney general or the prosecuting attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act or the recovery of penalties payable to the state, and of all other laws of this state relating to railroads and for the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered by an action brought thereon in the name of the state of Oregon in any court of appropriate jurisdiction. Commission shall have authority to employ special counsel in any proceedings, investigation, hearing or trial, and to fix their compensation. *Gen. Laws 1907, ch. 53, sec. 57.*

Commission shall inquire into any neglect or violation of any law of this state or any law or ordinance of any municipality thereof by any public utility corporation doing business therein, or by the officers, agents or employes thereof, or by any person operating a public utility, and shall have the power, and it shall be its duty to enforce the provisions of this act, as well as all other laws relating to public utilities and report all violations thereof to the attorney general. Upon request of commission it shall be the duty of the attorney general or the prosecuting attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and to prosecute all necessary suits, actions or proceedings for the enforcement of this act or the recovery of penalties payable to the state or the enforcement of any law of this state or any law or ordinance of any municipality thereof relating to public utilities, and for the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered by an action brought thereon in the name of the state of Oregon in any court of appropriate jurisdiction. Commission shall have authority to employ counsel and to fix their duties and compensation. *Gen. Laws 1911, ch. 279, sec. 74.*

See also pars. 499, 3562, 3565.

PENNSYLVANIA If it shall appear to commission that any common carrier has violated any provision of law, or neglected in any respect to comply with the terms of its charter, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, it shall give notice, in writing, thereof to the said common carrier; and, if the violation, neglect, or refusal is continued after such notice, commission shall forthwith certify the matter to the attorney general of the common-

wealth, for such action according to law as the public interests may require. *Laws 1907, no. 250, sec. 15.*

See also par. 3568.

RHODE ISLAND The attorney general shall, whenever requested by commission, appear and represent commission in any hearing, investigation, action or proceeding under this act, or in reference to any act or proceeding of commission, and intervene in any action or proceeding in which any question arising under this act is involved. *Acts 1912, ch. 795, sec. 10.*

Whenever commission shall be of the opinion that a public utility, subject to its supervision is failing or omitting, or about to fail or omit to do anything required of it by law or by order of commission, or is doing anything, is about to do anything or is permitting anything, or is about to permit anything to be done contrary to or in violation of law or of any order of commission, it shall direct the attorney general to commence an action or proceeding in the supreme court in the name of commission for the purpose of having such violations or threatened violations prevented. The attorney general shall thereupon begin such action, or proceeding by petition to the supreme court, alleging the violation or threatened violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify a time not exceeding 20 days after the service of the copy of the petition, within which the public utility complained of must answer the petition, and in the meantime said public utility may be restrained. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding, shall either dismiss the action or proceeding or direct that appropriate relief be granted as prayed for in the petition, or in modified or other form. *Same, sec. 31.*

See also par. 3569.

SOUTH CAROLINA Whenever in the judgment of commission it shall appear that any corporation has violated any law, or neglected, in any respect or particular, to comply with the terms of its charter, or with the provisions of any of the laws of the state, especially in regard to the connections with other railroads, the rates of toll, and the time schedule, they shall give notice

4006 thereof in writing to such corporation, and if the violation or neglect is continued after such notice, commission shall make application to a circuit judge or a judge thereof, in vacation, for an injunction to restrain the company complained of from further continuing to violate the law or the terms of its charter, or for a writ of mandamus, as hereinafter provided in section 2119. *Gen. Stats. 1902, sec. 2068.*

If any railroad company shall neglect or refuse to comply with the provisions of this chapter or with the rules and regulations prescribed by commission within the limits of their authority, such company shall be subject to a writ of mandamus, to be issued by any justice of the supreme court, or circuit judge, upon application of commission, or a majority of it, to require compliance with said laws or said rules and regulations, and failure to comply with said writ of mandamus shall be punishable as for contempt; and for any wilful violation of any of said laws, or failure to comply with the requirements of such rules or regulations, the court may award such costs and counsel fees, on the return of said writs, and after due deliberation thereon, as may be just. *Same, sec. 2119.*

See also pars. 2457, 2458, 3570.

SOUTH DAKOTA The attorney general of the state shall at all times, when requested, give commissioners such counsel and advice as they may from time to time require; and it is hereby made his duty to institute and prosecute, whenever requested by commissioners, any and all suits which commission may deem it expedient and proper to institute; and he shall render commission all counsel, advice and opinions in writing, when requested, as are necessary to carry out the provisions of this article, or of any law of this state, according to the true intent 4008 and meaning thereof. It shall likewise be the duty of the state's attorney of any county in which suit is instituted or prosecuted, to aid in the prosecution of the same to a final issue upon the request of commission. Commissioners are hereby also authorized, when in their opinion it is necessary or proper, to employ any and all additional legal counsel to assist them in the discharge of their duties and to conduct and prosecute any and all suits they may determine to bring under the provisions of this article or any law of this state, or to assist the attorney general in the prosecution of the same. *Rev. Pol. Code 1903, sec. 470.*

All legal proceedings prosecuted or defended by commis-

sion shall be conducted by or under the direction of the attorney general, who in person, or by a duly appointed assistant, shall
4000 have exclusive charge thereof, and all legal advice and counsel needed by commission shall be furnished upon request by the attorney general. Commission shall not be permitted to employ other counsel. *Sess. Laws 1907, ch. 210, sec. 1.*

Whenever any common carrier shall violate or refuse or neglect to obey any lawful order or requirement of commission, it shall be the duty of commission, and lawful for any company or person interested in such order or requirement to apply in a summary way, by petition to the circuit court in any county of this state in which the common carrier complained of has its principal office, or in any county through which its line of road passes or is operated, or in which the violation or disobedience of such order or requirement may happen, alleging such violation or disobedience, as the case may be, and the court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable, and such notice may be served on such common carrier or its officers, agents or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of commission shall be prima facie evidence of the matter therein, or in order made by them stated; and if it be made to appear to such court on such hearing or on the report of any such person or persons that the order or requirement of commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a peremptory writ of mandamus or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of commission and enjoining obedience to the same; and in case of any disobedience of such writ of mandamus or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment or any other process of said court incident or applicable to writs of mandamus or other proper process, mandatory

or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers or agents of the same or against any owner, lessee, trustee, receiver or other person failing to obey such writ of mandamus or other process, mandatory or otherwise, and said court may if it shall think fit, make an order directing such common carrier or other person so obeying such writ of mandamus or other process, mandatory or otherwise: and said court may if it shall think fit, make an order directing such common carrier or other person so obeying such writ of mandamus or other process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of \$1,000 for every day after a day to be named in the order, that such carrier or other persons shall fail to obey such writ of mandamus or other process, mandatory or otherwise; and such moneys shall, upon the order of the court, be paid into the treasury of the county in which the action was commenced, and one-half thereof shall be transferred by the county treasurer to the state treasury; and the payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order, in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court, saving to commission and to any other party or person interested the right to appeal to the supreme court of the state, under the same regulations now provided by law in relation to appeals to said court as to security for such appeal, except that in no case shall security for such appeal be required when the same is taken by commission. Such court may in every such matter order the payment of such costs and attorney and counsel fees as shall be deemed reasonable. Whenever such petition shall be filed or presented, or be prosecuted by commission or by their direction, they may require the attorney general of the state to prosecute the same, and in such prosecution he shall have the right to have the assistance of the state's attorney of any county in which any such proceedings are instituted; and it is hereby made the duty of any state's attorney to render such assistance; and the costs and expenses on the part of commission of any prosecution shall be paid out of the appropriations for the expenses of commission. *Sess. Laws 1911, ch. 207, sec. 19.*

The attorney general of the state shall at all times, when requested, give commission such counsel and advice as it may from time to time require, and it is hereby made his duty to institute and prosecute, whenever requested by commission, any

and all suits which commission may deem it expedient and proper to institute, and he shall render to commission all counsel, advice and opinions in writing when requested, as are necessary to carry out the provisions of this article, or of any law of this state, according to the true intent and meaning thereof. It shall likewise be the duty of the state's attorney of any county in which suit is instituted or prosecuted, to aid in the prosecution of the same to a final issue upon the request of commission or the attorney general. *Same, sec. 44.*

See also pars. 568, 1513, 3571.

TENNESSEE

The circuit and chancery courts and justices of the peace of this state shall have jurisdiction of all suits of a civil nature arising under the provisions of this act, according to the nature of the suit and the amount involved, as now provided by law; and the circuit courts shall have jurisdiction of all criminal proceedings arising under this act, except in counties where there are special criminal courts, and in such counties such criminal courts shall have jurisdiction. Indictments or presentments under this act shall be preferred only upon recommendation or request of commission filed in the court having jurisdiction of the offense. And commission or any member thereof, or any person now authorized by law to prosecute criminal cases, may be prosecutor. *Acts 1897, ch. 10, sec. 26.*

All prosecutions or actions under this act shall be commenced within one year after the offense shall have been committed or the cause of action shall have accrued, or the same shall be barred. *Same.*

All penalties herein provided for shall be recovered, and suit thereon shall be brought, in the name of the state in the proper court having jurisdiction. All penalties and fines recovered by the state under this act shall be paid into the state treasury. The attorney general of the judicial circuit in which the suit is to be instituted shall prosecute suits brought in the name of the state under this act. *Same.*

It is hereby made the duty of commission to see that the provisions of this act and all laws of this state concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and all penalties due the state therefor recovered and collected. Commission shall report all such violations with the facts in their possession to the district attorney general of the judicial circuit in which proceedings are to be instituted,

and request him to institute the proper proceedings. *Same, sec. 27.*

It is hereby made the duty of commission to perform all duties imposed upon it by the provisions of this act, and see that the railroads shall comply with all such regulations and orders as it may reasonably and lawfully make under the provisions of this statute, and in case any railroad company shall fail and refuse to comply with such reasonable and lawful regulations and orders, it shall be the duty of commission to enforce the same, and power
4016 is hereby given commission to enforce the same by mandamus or mandatory injunction, or by other summary proceedings provided for by law, and in all such proceedings the orders and regulations, rates and tariffs made and fixed by commission pursuant to this act, shall be taken and treated as prima facie reasonable and valid, and it is hereby made the duty of the courts having jurisdiction in such proceedings to hear and determine all such summary causes as speedily as practicable, giving preference as in revenue causes. *Same, sec. 32.*

TEXAS

It is hereby made the duty of commission to see that the provisions of this chapter and all laws of this state concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the state therefor recovered and collected. Commission shall report all
4017 such violations, with the facts in their possession, to the attorney general or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings; and all suits between the state and any railroad shall have precedence in all courts over all other suits pending therein. *Sayles' Civ. Stats. 1897, art. 4579.*

See also par. 450.

VERMONT

Whenever commission has information or complaint that a person or corporation has violated or is violating a provision of this chapter, or has knowingly assisted in and consented to or profited by such violation, it shall at once investigate
4018 the matter and may, if deemed necessary, set a time and place for hearing the same. If commission determines from such investigation or hearing that a provision of this chapter has been violated, it shall forthwith certify its findings to the attorney general, or the state's attorney of the county where the offense is committed. *Pub. Stats. 1906, sec. 4543.*

VIRGINIA

Any person or corporation aggrieved by anything done or omitted in violation of any of the provisions of this act, by any public service corporation, chartered or doing business in this state, shall have the right to make complaint of the grievance and seek relief by petition against such public service corporation before commission, sitting as a court of record. If the grievance complained of be established, commission, sitting as a court of record, shall have jurisdiction, by injunction, to restrain such public service corporation from continuing the
4019 same, and to enjoin obedience to the requirements of this act, and commission, sitting as a court of record, shall also have jurisdiction, by mandamus, to compel any public service corporation to observe and perform any public duty imposed upon public service corporations by the laws of this commonwealth, subject as to any matter arising under this section to the right of appeal to the supreme court of appeals by either party as of right in the mode prescribed by law; but nothing in this section shall be construed to confer any power upon commission which is forbidden to the courts by section 12 of chapter four of this act. *Pollard's Code 1904, sec. 1294b(19).*

Whenever, in the judgment of commission, it shall appear that any transportation or transmission company has violated any law of this state, or has neglected in any respect or particular to comply with the terms of its charter, or with the provision of any of the laws of the commonwealth, it shall give notice thereof
4020 in writing to such company or the person operating the same; and if the violation or neglect be continued after such notice, commission shall take such proceedings and impose such fines or penalties within its jurisdiction as shall be necessary to compel such transportation or transmission company to comply with the terms of its charter and the provisions of the laws of the commonwealth. *Same, sec. 1313a(19).*

WASHINGTON

It shall be the duty of the attorney general to represent and appear for the people of the state and commission in all actions and proceedings involving any question under this act, or under or in reference to any act or order of commission; and it shall be the duty of the attorney general generally to see
4021 that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon commission, are enforced, and to that end he is authorized to institute, prosecute and defend

all necessary actions and proceedings. *Laws 1911, ch. 117, sec. 5.*

Whenever commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of commission, or is doing anything, or about to do anything, or permitting anything or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of commission authorized by this act, it shall direct the attorney general to commence an action or proceedings in the superior court of the state for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state on the relation of commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding 20 days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect as appeals from judgments of the superior court in actions to review orders of commission. All provisions of this act relating to the time of appeal, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court under the provisions of this section. *Same, sec. 93.*

It shall be the duty of commission to enforce the provisions of this act and all other acts of this state affecting public service

companies, the enforcement of which is not specifically vested in some other officer or tribunal. *Same, sec. 101.*

See also par. 3583.

WISCONSIN

Commission shall inquire into any neglect or violation of the laws of this state by any railroad corporation doing business therein, or by the officers, agents, or employes thereof or by any person operating a railroad, and shall have the power, and it shall be its duty, to enforce the provisions of this act as well as all other laws relating to railroads and report all violations thereof to the attorney general; upon request of commission it shall be the duty of the attorney general or the district attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to railroads and for the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered and suit thereon shall be brought in the name of the state in the circuit court for Dane county. The commission shall have authority to employ counsel in any proceeding, investigation, hearing or trial. *Laws 1905, ch. 362, sec. 1797-31.*

Commission shall inquire into any neglect or violation of the laws of this state by any public utility doing business therein, or by the officers, agents or employes thereof or by any person operating a plant of any public utility, and shall have the power and it shall be its duty to enforce the provisions of this act as well as all other laws relating to public utilities, and to report all violations thereof to the attorney general. *Laws 1907, ch. 499, sec. 1797m-102(1).*

Upon the request of commission it shall be the duty of the attorney general or the district attorney of the proper county to aid in any investigation, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to public utilities and for the punishment of all violations thereof. *Same, sec. 1797m-102(2).*

Any forfeiture or penalty herein provided shall be recovered and suit therein shall be brought in the name of the state in the circuit court for Dane county. Complaints for the collection of any such forfeiture may be made by commission or any member thereof and when so made the action so commenced

shall be prosecuted by the attorney general. *Same, sec. 1797m-102(3).*

Commission shall have authority to employ counsel in any
4028 proceeding, investigation, hearing or trial. *Same, sec. 1797m-102(4).*

See also pars. 3143, 3588, 3591.

B. DUTY OF UTILITIES TO COMPLY WITH ORDERS OF COMMISSION.

UNITED STATES It shall be the duty of every common carrier,
its agents and employes to observe and comply with all orders so
4029 long as the same shall remain in effect. *Act to Regulate Commerce,*
sec. 16.

ALABAMA Every railroad corporation, street railroad corporation,
or common carrier, and all officers, agents and employes
4030 of the same shall obey, observe and comply with every order
made by commission. *Acts 1907, sp. sess., no. 17, sec. 12.*

See also par. 2435.

ARIZONA, CALIFORNIA

Every public service corporation¹ shall obey
and comply with each and every requirement of every order, decision,
direction, rule, or regulation made or prescribed by commission in the
matters herein specified, or any other matter in
4031 any way relating to or affecting its business as a public service
corporation,¹ and shall do everything necessary or proper in
order to secure compliance with and observance of every such
order, decision, direction, rule or regulation by all of its officers,
agents, and employes. *Ariz.—Sess. Laws 1912, ch. 90, sec. 30;*
Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 30..

ARKANSAS *See par. 2384.*

COLORADO Identical with par. 4029. *Laws 1910, sp.*
4032 *sess., ch. 5, sec. 16.*

CONNECTICUT Every corporation, its officers, agents, and
employes shall obey, observe, and comply with every order made
4033 by commission so long as the same shall remain in force. *Pub.*
Acts 1911, ch. 128, sec. 35.

See also pars. 2419, 2420, 2437, 2571.

GEORGIA Every common carrier, railroad, street railroad,
railroad corporation, express, telephone, telegraph, dock,

¹ "Public utility," in California.

wharfage and terminal company or corporation within the
4034 state, and other corporations, companies, or persons, and all
officers, agents and employes of the same shall obey, observe and
comply with every order made by commission. *Code 1911, sec.*
2667.

ILLINOIS

See par. 2574.

KANSAS

It shall be the duty of every railroad company,
and each and every officer, agent and employe of any railroad
4035 company, and of each and every person engaged in any capacity
in the conduct of the business of a common carrier, to obey all
reasonable orders of commission made under the authority con-
ferred by this act. *Gen. Stats. 1909, sec. 7227.*

It shall be the duty of every railroad company and each and
4036 every officer, agent and employe of any railroad company or cor-
poration to obey all reasonable orders of commission. *Same,*
sec. 7235.

MARYLAND

Every common carrier, railroad, street rail-
road, gas, electrical corporation and other corporation and all
4037 officers and agents or employes¹ thereof shall obey, observe and
comply with every order made by commission, so long as the same
shall be and remain in force. *Laws 1910, ch. 180, secs. 28, 38.*

See also pars. 2393, 2924, 2446.

MASSACHUSETTS

See par. 3008.

MICHIGAN

Every corporation, its officers, agents and em-
ployes, and all persons and firms engaged in the business of fur-
4038 nishing electricity shall obey and comply with every lawful order
made by commission, so long as the same shall remain in force.
Pub. Acts 1909, no. 106, sec. 8.

NEW HAMPSHIRE

Every railroad corporation and public utility
and all officers and agents of the same shall obey, observe, and
4039 comply with every order made by commission, so long as the
same shall be and remain in force. *Laws 1911, ch. 164, sec. 18.*

See also pars. 2452, 2453.

NEW YORK

Every common carrier, railroad and street
railroad corporation and all officers and agents of any common
4040 carrier, railroad or street railroad corporation shall obey, ob-
serve and comply with every order made by commission so long

¹"Or employes" appears only in the provision for gas and electrical corporations (sec. 38).

as the same shall be and remain in force. *Laws 1910, ch. 480, sec. 56(1).*

Every gas or electrical corporation and the officers, agents
4041 and employes thereof shall obey, observe and comply with every
order made by commission so long as the same shall be and re-
main in force. *Same, sec. 73.*

Every telegraph or telephone corporation and all officers,
agents and employes of any telegraph or telephone corporation
4042 shall obey, observe and comply with every order, direction or re-
quirement made by commission, so long as the same shall be and
remain in force. *Same, sec. 102(1).*

See also pars. 2397, 2399, 2428, 2453.

OHIO Every public utility or railroad and every
4043 officer thereof, shall obey, observe and comply with every order,
direction and requirement of commission so long as the same
shall be and remain in force. *Laws 1911, no. 325, sec. 67.*

See also pars. 2403, 2429, 2521.

OREGON *See par. 2523.*

RHODE ISLAND Every public utility and all officers and agents
thereof shall obey, observe and comply with every order of com-
4044 mission as long as the same shall be and remain in force. *Acts*
1912, ch. 795, sec. 30.

See also par. 2529.

TEXAS *See par. 2407.*

WASHINGTON Every public service company and all officers,
agents and employes of any public service company, shall obey,
4045 observe and comply with every order, rule, direction or require-
ment made by commission so long as the same shall be and re-
main in force. *Laws 1911, ch. 117, sec. 94.*

WISCONSIN *See par. 2537.*

C. GENERAL PENALTIES IMPOSED UPON PER- SONS OR UTILITIES FOR VIOLATIONS OF PROVISIONS OF LAW.

UNITED STATES Any common carrier or, whenever such com-
mon carrier is a corporation, any director or officer thereof, or
any receiver, trustee, lessee, agent, or person acting for or em-
ployed by such corporation, who, alone or with any other cor-
poration, company, person, or party, shall wilfully do or cause

to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail or do any act, matter, or thing in this act required to be done, 4046 or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act for which no penalty is otherwise provided, or who shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed \$5,000 for each offense. *Act to Regulate Commerce, sec. 10.*

Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent or either of them, who knowingly fails or neglects to obey any order made under the 4047 provisions of section 15 of this act shall forfeit to the United States the sum of \$5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. *Same, sec. 16.*

The forfeiture provided for in this act shall be payable into the treasury of the United States, and shall be recoverable in a 4048 civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs. *Same.*

It shall be the duty of the various district attorneys, under the direction of the attorney general of the United States, to 4049 prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. *Same.*

Anything done or omitted to be done by a corporation common carrier which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed with reference to such persons, except as such penalties are herein changed; provided, that any person, or any officer or director of any corporation or any receiver, trustee, lessee, agent, or person acting

4000 for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein. *Elkins Act, sec. 1.*

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier
4001 files with the interstate commerce commission or publishes a particular rate, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act. *Same.*

ALABAMA

Any railroad or street railroad corporation or other common carrier which shall do or cause to be done or permit to be done any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, or shall fail, refuse, neglect or omit to perform any duty by this act required to be performed, for which a penalty has not been provided, or shall fail, refuse, omit or neglect to obey any lawful order or requirement of commission, for which a penalty has not been provided, shall forfeit to the state a sum not exceeding \$2,000 for each offense, to be fixed by the court or judge trying the case; and every such violation, failure, refusal, neglect or omission, shall constitute a separate and distinct offense, and, in case of a continuing violation, each and every day's continuance thereof shall be, and be deemed to be, a separate and distinct offense. In construing and enforcing the provisions of this act, the act, omission, or failure, or refusal, of

any officer, agent, or other person acting for or employed by any such common carrier, acting within the scope of his official duties or employment, shall in every case be, and be deemed to be, the act, omission, failure or refusal of such common carrier. Every
4000 officer, agent or employe of any such common carrier or corporation who shall violate, or who procures, aids or abets any violation of any provision of this act, or who shall fail to obey, observe or comply with any order of commission, or any provision of any order of commission or who procures, aids or abets any such common carrier or corporation in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not exceeding \$500 for each offense, to be fixed by the court or judge trying the case. Any officer, agent or employe shall be subject to indictment or prosecution in any county in which a subordinate agent or employe of the carrier violates any of the provisions of this act or any rule or order of commission, by the direction or in consequence of the direction of such officer, agent or employe; and the agent or employe who locally in any county violates any of the provisions of this act or any of the rules or orders of commission, in pursuance of the direction or authority of his superior officer or agent of the carrier, may be called as a witness and be compelled to testify, showing the authority by which he acted, and such testimony shall not be used against him, nor shall he thereafter be subject to indictment for said offense. *Acts 1907, sp. sess., no. 17, sec. 11.*

ARIZONA

This act shall not have the effect to release or waive any right of action by the state, the commission, or any
4003 person or corporation for any right, penalty or forfeiture which may have arisen or accrued or may hereafter arise or accrue under any law of this state. *Sess. Laws 1912, ch. 90, sec. 74(a).*

All penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeit-
4004 ure or be a bar to any criminal prosecution against any public service corporation, or any officer, director, agent or employe thereof, or any other corporation or person, or be a bar to the exercise by commission of its power to punish for contempt. *Same, sec. 74(b).*

Any public service corporation which violates or fails to comply with any provision of the constitution of this state or of this act, or which fails, omits or neglects to obey, observe or

comply with any order, decision, decree, rule, direction, demand
4055 or requirement or any part or provision thereof, of commission,
in a case in which a penalty has not hereinbefore been provided
for such public service corporation, is subject to a penalty of not
less than \$100 nor more than \$5,000 for each and every offense.
Same, sec. 76(a).

Every violation of the provisions of this act, or of any order,
decision, decree, rule, direction, demand or requirement of com-
4056 mission, or any part or portion thereof by any corporation or
person is a separate and distinct offense, and in case of a continu-
ing violation each day's continuance thereof shall be and be
deemed to be a separate and distinct offense. *Same, sec. 76(b).*

In construing and enforcing the provisions of this act relat-
ing to penalties, the acts, omission or failure of any officer, agent
4057 or employe of any public service corporation, acting within the
scope of his official duties or employment, shall in every case be
and be deemed to be the act, omission, or failure of such public
service corporation. *Same, sec. 76(c).*

Every officer, agent or employe of any public service corpo-
ration, who violates or fails to comply with, or procures, aids or
abets any violation by any public service corporation of any pro-
vision of the constitution of this state or of this act, or who fails
to obey, observe or comply with any order, decision, rule, direc-
tion, demand or requirement or any part or provision thereof, of
commission, or who procures, aids or abets any public service cor-
4058 poration in its failure to obey, observe and comply with any such
order, decision, rule, direction, demand or requirement, or any
part or provision thereof in a case in which a penalty has not here-
inbefore been provided for such officer, agent or employe, is guilty
of a misdemeanor and upon conviction thereof is punishable by a
fine not exceeding \$1,000 or by imprisonment in a county jail not
exceeding one year or both such fine and imprisonment. *Same,*
sec. 77.

Every corporation, other than a public service corporation,
which violates any provision of this act, or which fails to obey,
observe or comply with any order, decision, rule, direction, de-
4059 mand or requirement, or any part or provision thereof, of com-
mission, in a case in which a penalty has not hereinbefore been
provided for such corporation, is subject to a penalty of not less
than \$100 nor more than \$5,000 for each and every offense. *Same,*
sec. 78.

Every person who, either individually, or acting as an officer,

agent or employe of a corporation other than a public service corporation, violates any provision of this act, or fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement, or any part or portion thereof, of commission, or who procures, aids or abets any such public service corporation in its violation of this act, or in its failure to obey, observe or comply with any such order, decision, rule, direction, demand or requirement, or any part or portion thereof, in a case in which a penalty has not hereinbefore been provided for such person, is guilty of a misdemeanor, and upon conviction thereof, shall be punished by being imprisoned in a county jail for a period not exceeding one year, or by a fine not exceeding \$1,000 or by both such fine and imprisonment. *Same, sec. 79.*

Actions to recover penalties under this act shall be brought in the name of the people of the state, in the superior court in and for the county in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or agent for any purpose, or in which the person, if any, resides, or the county in which commission has its domicile. *Same, sec. 80.*

Such action shall be commenced and prosecuted to final judgment by the attorney general of the state. In any such action all penalties incurred up to the time of commencing the same may be sued for and recovered. *Same.*

All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of commission upon such terms as the court shall approve and order. *Same.*

In case any public service corporation, corporation or person shall fail to observe, obey or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or portion thereof, of commission or any commissioner, such public service corporation, corporation or person shall be in contempt of commission and shall be fined by commission a sum not less than \$100 nor more than \$5,000 to be recovered before any court of competent jurisdiction, in this state. *Same, sec. 81.*

Procedure had in such contempt proceedings shall be the same as in courts of record in this state. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this act, but shall be cumulative and in addition to any such other remedy or remedies. *Same.*

ARKANSAS

If any person or corporation operating a railroad or express company in this state, or any receiver, trustee, or lessee of any such person or corporation shall violate any of the provisions of this act, or aid or abet therein, or shall violate the tariff of charges as fixed by commission, or any of the rules regarding railroads or express companies, as made by commission and for which there is no other penalty prescribed in this act, such person or corporation or receiver, trustee, lessee shall be liable to a penalty not less than \$500 nor more than \$3,000 for each violation of the act or such tariff of charges or rules and regulations, and such penalty may be recovered by an action to be brought in the name of the state in the county in which such violation may occur. Commission shall institute such action and actions for the recovery of the penalties prescribed in this act through the
4006 prosecuting attorney of the proper district and no such suit shall be dismissed or compromised without the consent of the court and of commission, and the prosecuting attorney shall be allowed a fee by the court not to exceed 25 per cent. of the amount collected, and if any prosecuting attorney shall neglect for 15 days after notice to bring suit, commission may employ some other attorney at law to bring the same, who shall be allowed a fee therefor to be fixed by the court, not to exceed 25 per cent. of the amount collected. In such cases the prosecuting attorney shall not interfere; provided, that in all trials of cases brought for violation of any tariff charges by commission, it may be shown in evidence that such tariff so fixed was unjust. Nothing in this section shall be so construed as to in any manner interfere with any action for damages which may be provided by law.
Kirby's Digest 1904, sec. 6813. Acts 1907, no. 422, sec. 7.

CALIFORNIA

Provisions identical with pars. 4053, 4054.
4007 *Stats. 1911, 1st. ex. sess., ch. 14, secs. 74(a), 74(b).*

Any public utility which violates or fails to comply with any provision of the constitution of this state or of this act, or which fails, omits or neglects to obey, observe or comply with any
4008 order, decision, decree, rule, direction, demand or requirement or any part or provision thereof, of commission, in a case in which a penalty has not hereinbefore been provided for such public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each and every offense. *Same, sec. 76(a).*

4009 Also provisions identical with pars. 4056, 4057, 4058. *Same, secs. 76(b), 76(c), 77.*

Every corporation, other than a public utility, which violates

any provision of this act, or which fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement, 4070 or any part or provision thereof, of commission, in a case which a penalty has not hereinbefore been provided for such corporation, is subject to a penalty of not less than \$500, nor more than \$2,000 for each and every offense. *Same, sec. 78.*

4071 Also a provision identical with par. 4060. *Same, sec. 79.*

Actions to recover penalties under this act shall be brought in the name of the people of the state, in the superior court in and for the county, or city and county, in which the cause or some part thereof arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the attorney of commission. In any such action, all penalties incurred up to the time of com- 4072 mencing the same, may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of commission upon such terms as the court shall approve and order. *Same, sec. 80.*

Every public utility, corporation or person which shall fail to observe, obey, or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or portion thereof, of commission or any commissioner shall be in contempt of the commission, and shall be punishable by commission 4073 for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this act, but shall be cumulative and in addition to such other remedy or remedies. *Same, sec. 81.*

COLORADO

Any common carrier or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such corporation, or shipper consignee, or applicant for cars, who alone or with any other corporation, company, person or party, shall wilfully do or cause to be done, shall wilfully suffer or permit to be done, any act, matter or thing in this act prohibited, or declared to be unlawful, or who shall aid or abet therein, or

4074 shall wilfully omit or fail to do any act, matter or thing in this act required to be done, or shall aid or abet any such omission or failure or shall be guilty of any infraction of this act, or shall aid or abet therein, or shall fail or refuse or neglect to obey any order of commission made under the provisions of this act, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof in any district court of this state within the jurisdiction of which such offense was committed be subject to a fine not less than \$100 nor more than \$1,000 for each offense. *Laws 1910, sp. sess., ch. 5, sec. 9.*

Any common carrier, officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent or either of them, who knowingly neglects or fails to obey any order made under the provisions of this act, other than for the payment of money, shall 4075 forfeit to the state the sum of \$1,000 for each offense. Every distinct violation shall be a separate offense and in a case of a continuing violation, each day shall be deemed a separate offense. *Same, sec. 16.*

The forfeiture provided for in this act shall be payable into the treasury of the state and shall be recoverable in a civil suit in 4076 the name of the state, in the district court where the common carrier has its principal operating office, or in any district through which the road of the common carrier runs, or is located. *Same.*

It shall be the duty of the attorney general or the district attorney in the district wherein the cause of action arose, under the direction of the attorney general of the state, to prosecute for 4077 the recovery of forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of commission. *Same.*

CONNECTICUT Any corporation, or any officer, agent, or employe thereof, who fails or neglects to obey or comply with any order or any provision of this act for which no other penalty is prescribed, shall be fined not more than \$5,000 for each offense. 4078 Each distinct violation of such order, or of this act, shall be a separate offense, and in cases of a continued violation each day thereof shall be deemed a separate offense. *Pub. Acts, 1911, ch. 128, sec. 35.*

FLORIDA If any railroad, railroad company or any other common carrier shall by any officer, agent, or employe, be guilty of a violation or disregard of any rate, schedule, rule or regulation

provided or prescribed by commission, or shall fail to make any report required to be made under the provisions of this chapter or shall otherwise violate any provisions of this chapter such company, or common carrier shall thereby incur a penalty for each such offense of not more than \$5,000 to be fixed and imposed by commission after not less than ten days' notice of the charge of such violation or disregard of rate, schedule, rule or regulation, or failure to make report or other violation of the provisions of this chapter, and upon which charge such company or common carrier shall have had an opportunity to be heard by commission, which fine or penalty, in the amount so fixed and imposed, if not properly paid to the state treasurer, shall be recovered, with interest thereon, by an action brought by commission in the name of the state in any county in the state where such action or violation has occurred or in any other county in the state through or in which such company or common carrier runs or does business. The fact of the fixing and imposing of such fine by commission shall constitute prima facie evidence of everything necessary to create the liability or require the payment of the fine or penalty as fixed and imposed, and to authorize a recovery thereon, in any action or proceeding brought by commission, and a copy of the entry in the minute book of commission of the order fixing and imposing such fine or penalty, certified by the chairman of commission, shall constitute prima facie evidence of the fact that such fine or penalty was fixed and imposed by commission. *Gen. Stats. 1906, sec. 2908.*

If any officer, agent or employe of any railroad company or other common carrier shall violate or refuse to obey the provisions of law relating to the establishment and operation of a railroad commission in this state, such officer, agent or employe of such railroad company or other common carrier, shall, except in cases where the punishment is otherwise provided, upon conviction thereof be fined not less than \$250, nor more than \$1,000 for each and every offense. *Same, sec. 3633.*

GEORGIA All fines recovered under the provisions of this article shall be paid into the state treasury to be used, for such purposes as the general assembly may provide. The remedies hereby given the persons injured shall be regarded as cumulative to the remedies now given by law against railroad corporations, and this article shall not be construed as repealing any statute given such remedies. *Code 1911, sec. 2641.*

Any common carrier, railroad, street railroad, railroad cor-

poration, street railroad corporation, express, telephone, telegraph, dock, wharfage or terminal company, or corporation, cotton compress companies within this state, and other corporations, companies or persons coming under the provisions of this act, which shall violate any provision of this act, or of the acts heretofore passed, or which fails, omits or neglects to obey, observe and comply with any order, direction or requirements of commission heretofore or hereafter passed, shall forfeit to the state a sum of not more than \$5,000 for each and every offense, the amount to be fixed by the presiding judge. Every violation of the provisions of this act, or of any preceding act, or of any such order, direction or requirement of commission shall be a separate and distinct offense, and in case of a continued violation, every day a violation thereof takes place shall be deemed a separate and distinct offense. An action for the recovery of such
4082 penalty may be brought in the county of the principal office of such corporation or company in this state, or in the county of the state where such violation has occurred and wrong shall be perpetrated, or in any county in this state through which said corporation or company operates, or where the violation consists of an excessive charge for the carriage of freight or passengers or service rendered, in any county in which said charges are made, or through which it was intended that such passenger or freight should have been carried, or through which such corporation operates, and shall be brought in the name of the state by direction of the governor. Any procedure to enforce such penalty shall be triable at the first term of the court at which it is brought and shall be given precedence over other business by the presiding judge, and the court shall not be adjourned until such proceeding is legally continued or disposed of. The decision in such case may be taken to the supreme court as now provided in cases of the grant or refusal of injunctions by judges of the superior courts. *Same, sec. 2667.*

Every officer, agent, or employe of any such common carrier, corporation or company who shall violate, or procures, aids or abets any violation by any such common carrier or corporation or company of any provision of this act, or which shall fail to obey, observe or comply with any order of commission, or any provision of any order of commission, or who procures, aids or abets any such common carrier, or corporation or company in
4083 its failure to obey, observe and comply with any such order, direction or provision shall be guilty of a misdemeanor, and on

conviction thereof, shall be punished as prescribed in section 1039 of the penal code of 1895, and shall be subject to prosecution in any county in Georgia in which said common carrier or corporation, or company, or officer, agent or employe violates the provisions of this act, or any provisions of any order of commission or in any county through which said corporation operates. *Same, sec. 2668.*

Any officer, agent or employe shall also be subject to indictment under the provisions of this section, in any county in which a subordinate agent or employe of the company violates the provisions of this act, by the approval, or direction, or in consequence of the approval or direction of such officer, agent or
4004 employe; and the agent, or employe who locally in any county violates the rules or directions of commission in pursuance of the direction or authority of his superior officer or agent of said company may be called as a witness, and be compelled to testify, showing the authority by which he acted, and such testimony shall not be used against such subordinate employe or agent, nor shall he thereafter be subject to indictment for said offense. *Same.*

The penalties prescribed by law and the procedure to enforce
4005 the same are made applicable to any and all violations of the rules, orders, and regulations established by commission. *Same, sec. 2669.*

ILLINOIS

All fines recovered under the provisions of this act shall be paid into the county treasury of the county in which the suit is tried, by the person conducting the same, in the man-
4006 ner now provided by law, to be used for county purposes. The remedies hereby given shall be regarded as cumulative to the remedies now given by law against railroad corporations, and this act shall not be construed as repealing any statute giving such remedies. *Revisal 1909, ch. 114, sec. 132.*

All prosecutions shall be in the name of the people of the state, and all moneys arising therefrom shall be paid into the state treasury by the sheriff or other officer collecting the same; and the state's attorney shall be entitled to receive for his compensation from the state treasurer on bills to be approved by the
4007 chairman of commission, and by the governor, a sum not exceeding ten per cent. of the amount received and paid into the state treasury as aforesaid; provided, this act shall not be construed so as to prevent any person from prosecuting any *qui tam* action as authorized by law and of receiving such part of the

amount recovered in such action as is or may be provided under any law of this state. *Same, sec. 184.*

Any railroad company or other common carrier or warehouseman, or any of their executive officers, who unlawfully neglect or refuse or fail to obey any order made by commission and to carry the same into effect in accordance with the terms of
4088 such order, shall be liable to a fine of not less than \$100 nor more than \$500 for failure to obey such order, writ, process or decree of commission, such fine to be recovered in an action of debt in the name of the people of the state, before any court of competent jurisdiction. Such fine, when so recovered, to be paid into the treasury of the state. *Same, sec. 199.*

Any express company, or carrier by express or any officer, representative, servant, agent, lessee, trustee or receiver of such express company, or carrier by express, who shall wilfully do, cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall wilfully neglect or omit to do any act, matter or thing required by this act to be done by him, or it, the punishment for which is not here-
4090 inabove expressly provided for, shall be guilty of a misdemeanor and upon conviction for the first offense, be fined in any sum not less than \$100 nor more than \$500 and for any subsequent offense be fined not less than \$500 and not more than \$1,000, and be confined in the county jail not more than 90 days. Every distinct violation shall be a separate offense and in case of a continuing violation, the violation for each day shall be deemed a separate offense. *Same, sec. 377.*

INDIANA

If any railroad company shall wilfully violate, any provision of this act, and shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for
4090 which a penalty has not herein been provided, for every such act of violation, it shall pay the state a penalty of not more than \$1,000 to be recovered in a civil suit to be instituted for that purpose in any court of competent jurisdiction. *Burns' Annot. Stats. 1908, sec. 5547.*

Every carrier which shall knowingly and wilfully do any act which is herein forbidden and declared to be unlawful, and every carrier which shall knowingly and wilfully fail to do any act herein
4091 required to be done by it, the failure to perform which is herein declared to be unlawful, shall forfeit and pay to the state, a penalty of not less than \$100 nor more than \$1,000 to be collected as provided in this act. *Acts 1907, ch. 241, sec. 12(a).*

Every carrier which shall fail to comply with any final order made against it by commission in any proceeding pending before commission, in which any such carrier is a party, unless such order
4082 is suspended, annulled, or set aside by some court of competent jurisdiction as provided in this act, shall forfeit, and pay to the state for each violation of any such order a penalty of not less than \$100 nor more than \$1,000 to be collected as provided in this act. *Same, sec. 12(b).*

All penalties and forfeitures provided for in this act except as otherwise provided herein, shall be recovered and suits therefor shall be brought by and in the name of commission, for the use of the state, in any circuit or superior court of any county
4083 into or through which any such carrier may operate. In case of a recovery the court or jury trying the cause shall allow to commission a docket fee of \$50 for each penalty recovered, to be applied to attorneys' fees and expenses of the litigation. All penalties recovered by the state under this act, shall be paid into the treasury of the state. *Same, sec. 15.*

IOWA Except as otherwise specially provided for in this chapter, and unless relieved from the consequences of a violation of the law as provided herein, any common carrier or when such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who alone or with any other corporation, company, person or party shall wilfully do or cause to be done, or shall wilfully suffer, or permit to be done any act, matter or thing in this chapter prohibited or declared to be un-
4084 lawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this chapter required to be done, or shall cause or willingly suffer or permit any act matter, or thing, so directed or required by the provisions of this chapter to be done, not to be so done, or shall aid or abet any such omission or failure or shall be guilty of any infraction of the provisions of this chapter, or shall aid or abet therein, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not more than \$5,000 nor less than \$500 for each offense. *Code 1897, sec. 2132.*

KANSAS Any railroad company or individual wilfully violating or evading any of the provisions of this act not otherwise herein provided for, shall, for each offense, forfeit and pay a penalty of not less than \$100 nor more than \$5,000. All penalties provided for in this act, shall be recovered by a civil action to be

instituted and prosecuted in the name of the state, by the county attorney of the county in which the offense has been committed upon the direction of commission. If upon the trial of said action 4095 the jury shall find for the plaintiff, they shall assess and return with their verdict the amount of the fine to be imposed upon the defendant, and the courts shall render judgment accordingly. All such penalties so recovered shall be paid into the school fund of the county in which such offense has been committed, and commission may require the attorney general to assist such county attorney in the prosecution of such action. No bond for costs shall be required of the state in any such action. *Gen. Stats. 1909, sec. 7223.*¹

If any common carrier or public utility shall violate any of the provisions of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it in this act, or shall fail, neglect or refuse to obey any lawful requirement or order made by commission, or any final judgment or decree made by any court upon appeal from any order of commission, it shall for every such violation, failure or refusal, forfeit and pay to the support of the common schools a sum not less than \$100 and not more than \$1,000 for such offense. Such forfeiture shall be enforced and collected by the attorney general in any court of 4096 competent jurisdiction. In construing and enforcing the provisions of this act, any act, omission or failure of any officer, agent or other person acting for or employed by any such public utility or common carrier, while acting within the scope of his employment, shall in every case be deemed to be the act, omission or failure of such public utility or common carrier, and every day during which any such public utility or common carrier, or officer, agent, or employe thereof, shall fail to comply with any order or direction of commission, or to perform any duty required or enjoined by this act, shall constitute a separate and distinct violation of the provisions of this act. *Laws 1911, ch. 238, sec. 38.*

¹ All the provisions of chapter 286 of the laws of 1901, including all penalties and remedies in case of violations of law or of the orders of the board, in so far as applicable, shall apply to this act the same as if said provisions had been reenacted herein. *Gen. Stats. 1909, sec. 7180.*

For every neglect or refusal of any railroad company, corporation, receiver or person operating any railroad in this state to comply with any order of commission made in pursuance of the foregoing provisions, the person or corporation so neglecting or refusing shall forfeit to the state of Kansas, for the benefit of the school fund, the sum of \$100 for each and every day that any such order is neglected or disobeyed after the expiration of 30 days from the date of service of notice on the president, managing officer, superintendent, any member of the board of directors or any station agent, or person in charge of any office or station of such company, by commission of the making of such order, to be recovered by civil action in the name of the state, which action shall be prosecuted by the attorney general in any court having jurisdiction; provided, that upon good cause shown commission may extend the time within which such order shall be complied with to such an extent as, in the opinion of commission, under the circumstances of the particular case may be necessary or desirable. *Gen. Stats. 1909, sec. 7221.*

KENTUCKY

Any person, association or corporation, willfully or knowingly violating any of the provisions of sections 213, 214, 215, or 216, shall upon conviction by a court of competent jurisdiction for the first offense be fined \$2,000, for the second offense, \$5,000, and for the third offense shall thereupon, ipso facto forfeit its franchises, privileges or charter rights; and if such delinquent be a foreign corporation, it shall, ipso facto forfeit its right to do business in this state; and the attorney general of the commonwealth shall forthwith upon notice of the violation of any of said provisions, institute proceedings to enforce the provisions of the aforesaid sections. *Const., sec. 217.*

Any company failing to comply with or violating or permitting any of its employes or agents to violate any of the provisions of sections 772, 773, 774, 775, 777, 778, 780, 781, 782, 786, 787, and 791, of this article shall, in addition to subjecting itself to any damages that may be caused by such failure or violation, be guilty of a misdemeanor and be fined for each failure or violation not less than \$100 nor more than \$500 to be recovered by indictment in the circuit court of any county through which the company in default operates a line of road, or in the Franklin circuit court. *Carroll's Stats. 1909, sec. 793.*

MARYLAND

Any common carrier, railroad corporation, or street railroad corporation, which shall violate any provisions of this act, or which fails, omits or neglects to obey, observe or comply with any order, or any direction or requirement of commission, shall forfeit to the state a sum not to exceed the sum of \$5,000 for each and every offense; every violation of any order or direction or requirement, or of this act, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof, shall be and be deemed to be a separate and distinct offense. *Laws 1910, ch. 180, sec. 28.*

Every person, officer and agent of any common carrier, railroad corporation or street railroad corporation who shall violate, or who procures, aids or abets any violation by any such common carrier or corporation of any provision of this act, or who shall fail to obey, observe and comply with any order of commission, or any provision of any order of commission, or who procures, aids or abets any such common carrier in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor. *Same.*

Any corporation, other than a common carrier, which shall violate any provision of this act, or shall fail to obey, observe and

comply with every order made by commission under authority
4101 of this act, so long as the same shall be and remain in force, shall
forfeit to the state a sum not exceeding \$1,000 for each and every
offense; every such violation shall be a separate and distinct
offense, and the penalty or forfeiture thereof shall be recovered
in an action as provided in this section of this act. *Same.*

Every person who, either individually or acting as an officer
or agent of a corporation or person, other than a common car-
rier, railroad corporation or street railroad corporation, shall vio-
late any provision of this act, or fail to obey, observe or comply
4102 with any order made by commission under this act, so long as
the same shall be or remain in force, or who shall procure or aid or
abet any such corporation or person in a violation of this act, or
in a failure to obey, observe or comply with any such order, shall
be guilty of a misdemeanor. *Same.*

In construing and enforcing the provision of this act relating
to forfeitures and penalties, the act of any director, officer or
other person acting for or employed by any common carrier,
4103 railroad corporation, street railroad corporation or other cor-
poration subject to this act, acting within the scope of his official
duties or employment, shall be in every case and be deemed to
be the act of such common carrier or corporation or person.
Same.

An action to recover a penalty or a forfeiture under this
act may be brought in any court of competent jurisdiction in this
state in the name of the state and shall be commenced and prose-
cuted to final judgment by counsel to commission. In any such
action all penalties and forfeitures incurred up to the time of
commencing the same may be sued for and recovered therein and
the commencement of the action to recover a penalty of or for-
feiture shall not be, or be held to be, a waiver of the right to re-
cover any other penalty or forfeiture; if the defendant in such
4104 action shall prove that during any portion of the time for which
it is sought to recover penalties or forfeitures for a violation of an
order of commission the defendant was actually and in good
faith prosecuting a suit, action, or proceeding in the courts to set
aside such order, the court shall remit the penalties or forfeiture
incurred during the pendency of such suit, action or proceeding.
All moneys recovered in any such action together with the costs
thereof, shall be paid to the state treasurer except one-fourth of
the moneys recovered (exclusive of costs) which shall be paid to
the mayor and city council of Baltimore. *Same.*

Any gas and electrical corporation, or any officer, agent or employe thereof, who, knowingly, fails or neglects to obey or comply with any order, or any provision of this act, shall forfeit to the state not to exceed the sum of \$1,000 for each offense. Every distinct violation of any such order or of this act shall be a separate and distinct offense, and in case of a continuing violation each day shall be deemed a separate offense. An action to
4105 recover such forfeiture may be brought in any court of competent jurisdiction in this state in the name of the state, and shall be commenced and prosecuted to final judgment by counsel of commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty of forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of commission the defendant was actually and in good faith prosecuting the suit, or proceeding in the courts to set aside such order, the court shall remit the penalties or forfeitures incurred during pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid to the state treasurer, except one-fourth thereof, which shall be paid to the mayor and city council of Baltimore. *Same, sec. 38.*

MICHIGAN

Any corporation or person engaged in the business of furnishing electricity, or officer, agent, or employe thereof, who wilfully or knowingly fails or neglects to obey or comply with any order or any provision of this act shall forfeit to the state not to exceed the sum of \$300 for each offense. Every distinct violation of any such order or of this act shall be a separate offense
4106 and in case of a continued violation each day shall be deemed a separate offense. An action to recover such forfeiture may be brought in any court of competent jurisdiction in this state in the name of the people of the state, and all moneys recovered for any such action together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. *Pub. Acts 1909, no. 106, sec. 8.*

Any common carrier subject to the operation of this act, or whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person employed by such corporation, who alone or with any other cor-

poration, company, person or party shall wilfully do or cause to be done, or shall wilfully suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful or who shall aid or abet therein, or who shall wilfully omit or fail to do any act, matter or thing required to be done or who shall cause or wilfully suffer or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall do or abet any such omission or failure or shall be guilty of any infraction of this act, or shall aid or abet therein, or who shall wilfully disobey or knowingly fail or neglect to obey any lawful order made under the provisions of this act by commission, or shall aid and abet any such disobedience or omission or failure shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of misdemeanors, if a penalty for such offense be not elsewhere provided in this act, be subject to a fine of not to exceed \$500 for each offense, in the discretion of the court or if the convicted party be a natural person, he shall be liable to be punished by imprisonment in the county jail for a period of not to exceed three months, or both such fine and imprisonment in the discretion of the court. *Pub. Acts 1909, no. 300, sec. 43.*

This act shall not have the effect to release or waive any right of action by the state or by any person for any right, damage, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this state, and all penalties and forfeitures accruing under this act shall be cumulative, and a suit for and recovery of one shall not be a bar to the recovery of any other penalty or damage. *Same, sec. 46.*

Any express company, or its agents or representatives, that shall violate any of the provisions of this act shall be liable to a fine of \$100, for each violation, to be recovered in an action in the name of the people of the state. *Pub. Acts 1911, no. 273, sec. 4.*

MINNESOTA

Any common carrier or warehouseman who shall do or attempt to do, any act forbidden by this chapter, or shall fail to do anything therein required of him, or shall wilfully suffer or permit any such unlawful act or omission when no specific penalty is imposed therefor, if a natural person, shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than \$2,500 nor more than \$5,000 for the first offense and not less than \$5,000 nor more than \$10,000 for each subsequent offense; and, if such carrier or warehouseman be a corporation, it shall forfeit to the state for the first offense not less than \$2,500

nor more than \$5,000 and for each subsequent offense not less than \$5,000 nor more than \$10,000, to be recovered in a civil action. All fines and forfeitures collected under the provisions of this chapter shall be paid into the state treasury to the credit of the general revenue fund. *Rev. Laws 1905, sec. 1987.*

4111 All forfeitures provided by this chapter shall be collected by civil action in the name of the state, and the attorney general and the county attorney of any county in which the cause of action arises shall prosecute such action. *Same, sec. 2046.*

MISSISSIPPI If any railroad or other common carrier shall violate any of the provisions of chapter 139, code 1906, or shall fail to do and perform any duty imposed by law, or shall fail to comply with any lawful order of commission or to conform to any of its reasonable rules and regulations, or shall demand or receive a greater sum for the transportation and handling of any passenger or freight than authorized by law or commission, it shall be liable to a penalty of \$500 for every such failure or overcharge not otherwise punished, to be recovered by action in the name of commission in any county where such failure may occur or overcharge be made; such action shall be instituted by the attorney general or the district attorney in his district; but in trials of cases brought for violation of any tariff of charges fixed by commission, it may be shown in the defense that such tariff so fixed was unreasonable and unjust to the carrier; provided, that the remedies given by this chapter against railroads and other common carriers are cumulative to those now existing by law. Street railways are not subject to the provisions of this chapter. *Laws 1908, ch. 81, sec. 1.*

4112

MISSOURI Any common carrier, or any of its officers, agents or employees, including receivers, trustees and lessees, who alone, or with any other person, company or corporation, shall do or cause to be done, or shall permit to be done, any act, matter or thing in sections 3179 to 3207, inclusive, prohibited or declared to be unlawful, or shall aid or abet therein, or fail to do any act or thing in said sections required to be done, or shall cause any act or thing not to be done which said sections direct shall be done, or shall aid or abet any such omission, shall be deemed guilty of a violation of the law, and shall forfeit a sum not exceeding \$5,000 for each and every offense. *Rev. Stats., sec. 3193.*

4113

The forfeitures and penalties herein provided for shall go to the county school fund of the county where sued for, and

may be recovered in a civil action in the name of the state at the relation of commission to the use of said fund, in any county where the complainant resides, if in the state, and if not, then where the offense may occur, or into or through which the railroad operated by the common carrier offending, or on which it
4114 operates, may run. It shall be the duty of the circuit or prosecuting attorney, and such additional counsel residing in such county as commission may employ, to prosecute the same when directed by commission, and the attorneys prosecuting such suit shall receive for their services, out of the amount collected by the suit, the compensation allowed by law for collections made on forfeited recognizances. The attorney general shall assist in the prosecution when directed by commission. *Same, sec. 3195.*

In case the ruling of any court of competent jurisdiction shall sustain any order of commission as provided for in section 3281, the penalties hereinafter provided for shall continue to accumulate and be collectible for each day's violation, unless the party appealing shall give a supersedeas bond for the payment of all penalties that have accrued or may accrue during the pendency of the appeal; and upon the giving of such bond the collection or enforcement of such penalty shall be sus-
4115 pended until such appeal is determined; provided, that if the order of commission be sustained by the higher court or courts of last resort, on appeal, then the penalties for every violation pending the appeal, and those accrued before, shall all immediately become due and payable, and shall be assessed against the party appealing, on motion, in the court from which said appeal was taken, and all penalties so collected shall be paid into the general school fund of the county in which said cause is pending. *Same, sec. 3282.*

Any corporation, copartnership or individual, or association of individuals refusing to comply with the orders of commission, made in accordance with the provisions of law, shall be subject to a penalty of not exceeding \$500 for each day that he or it so fails or refuses to comply with such orders. Such penalties may be recovered in a civil proceeding to be instituted in any court of competent jurisdiction in the name of the state at the relation
4116 and to the use of commission. Said proceedings to be instituted by the attorney general or prosecuting attorney of the county in which the violation takes place, at the request of commission, or may be instituted by special counsel to be selected by commission

and such special counsel shall receive as his compensation for such service such per cent. of the amount collected as shall be fixed by the court trying the same, not to exceed 25 per cent. thereof. *Same, sec. 3284.*

MONTANA

If any railroad shall wilfully violate any provision of this act, or shall do any other act herein prohibited, or shall refuse to perform any and all lawful orders emanating from
4117 commission relating to rates and charges, or any other duty enjoined upon it, for which a penalty has not herein been provided, for every such act of violation it shall pay to the state a penalty of not more than \$500. *Rev. Codes 1907, sec. 4392.*

All penalties and forfeitures incurred, levied and made under the provisions of this act, shall be collected by commission and paid over to the state treasurer and credited to the general fund; provided, however, that should commission fail or refuse
4118 to institute appropriate action for the recovery of any penalty or forfeiture provided for herein, for the space of 60 days after notice of the cause of complaint by such person or shipper aggrieved, such person or shipper may institute and prosecute such action in the name of the state against such railroad, in the same manner as could commission. *Same, sec. 4393.*

This act shall not have the effect to release or waive any right of action by the state or any person for any right, penalty or forfeiture which may have arisen, or may hereafter
4119 arise, under any law of this state, and all penalties accruing under this act shall be cumulative to each other, and a suit for or recovery of one, shall not be a bar to the recovery of any other penalty. *Same, sec. 4398.*

NEVADA

If any railroad shall violate any provision of this act, or shall do any act herein prohibited, or shall fail, or refuse to perform any duty enjoined upon it, or upon failure of any railroad to place in operation any rate or joint rate, or do any other act herein prohibited, for which a penalty has not been provided, or shall fail, neglect, or refuse to obey any lawful requirement or order made by commission or any court (upon its
4120 application), for every such violation, failure or refusal, such railroad or railroads shall forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$10,000 for each offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent, or other person acting for or employed by any railroad, acting within the scope of his

employment shall in every case be deemed to be the act, omission or failure of such railroad. *Stats. 1907, ch. 44, sec. 28.*

Any forfeiture or penalty herein provided shall be recovered
4191 and suit thereon shall be brought in the name of the state in the district court of any county having jurisdiction of the defendant. *Same, sec. 31.*

This act shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty, or forfeiture which may have arisen or which may
4192 hereafter arise under any law of this state; and all penalties and forfeitures accruing under this act shall be cumulative and a suit for, and recovery of, one shall not be a bar to the recovery of any other penalty. *Same, sec. 34.*

If any public utility shall violate any provision of this act, or shall do any act herein prohibited, or shall fail, or refuse to perform any duty enjoined upon it, or upon failure of any public utility to place in operation any rate or joint rate, or do any act
4193 herein prohibited, for which a penalty has not been provided or shall fail, neglect, or refuse to obey any lawful requirement or order made by commission or any court, for every such violation, failure or refusal, such public utility shall be subject to the penalty prescribed by section eight of this act. *Laws 1911, ch. 162, sec. 28.*

Any forfeiture or penalty herein provided shall be recovered
4194 and suit thereon shall be brought in the name of the state in the district court of any county having jurisdiction of the defendant. *Same, sec. 30.*

NEW HAMPSHIRE Any railroad corporation or public utility which shall violate any provisions of this act, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of commission, shall be fined a sum not exceeding \$5,000. Every officer and agent of any such railroad corporation or public utility who shall wilfully violate or who
4195 procures, aids or abets any violation of this act, or who wilfully fails to obey, observe and comply with any order of commission, or who procures, aids or abets any such railroad corporation or public utility in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than six months or both. *Laws 1911, ch. 164, sec. 18.*

Any forfeiture incurred under the provisions of this act shall be recovered in an action brought by the attorney general

in the name of the state, and when recovered shall be paid into the
4126 treasury of the state. Commission shall have authority to direct
the institution of such action, and the attorney general may
institute such action without direction whenever he shall have
knowledge that such forfeiture has been incurred. *Same, sec. 19.*

NEW JERSEY In default of compliance with any order of
commission when the same shall become effective the person or
public utility affected thereby shall be subject to a penalty of
\$100 per day for every day during which such default continues,
4127 to be recovered in an action of debt in the name of the state, and
observance of the orders of commission may be enforced by man-
damus or injunction in appropriate cases, or by suit in equity to
compel the specific performance of the order or orders so made, or
of the duties imposed by law upon such public utility. *Laws*
1911, ch. 195, sec. 33.

Any person who shall knowingly and wilfully perform, com-
mit or do, or participate in performing, committing or doing,
who shall knowingly and wilfully cause, participate or join with
others in causing any public utility corporation or company to do,
4128 perform or commit, or who shall advise, solicit, persuade, or know-
ingly and wilfully instruct, direct or order any officer, agent or
employe of any public utility corporation or company to perform,
commit or do any act or thing forbidden or prohibited by this act,
shall be guilty of a misdemeanor. *Same, sec. 34.*

Any person who shall knowingly and wilfully neglect, fail or
omit to do or perform, or who shall knowingly and wilfully cause
or join or participate with others in causing any public utility
corporation or company to neglect, fail or omit to do or perform,
4129 or who shall advise, solicit or persuade, or knowingly and wilfully
instruct, direct or order any officer, agent or employe of any
public utility corporation or company to neglect, fail or omit to do
any act or thing required to be done by this act shall be guilty of
a misdemeanor. *Same, sec. 35.*

Any public utility corporation which shall perform, commit
or do any act or thing hereby prohibited or forbidden, or which
4130 shall neglect, fail or omit to do or perform any act or thing hereby
required to be done or performed by it, shall be guilty of a mis-
demeanor. *Same, sec. 36.*

This act shall not have the effect to release or waive any right
of action by commission or by any person for any right, penalty or
forfeiture which may have arisen or which may arise, under
4131 any of the laws of this state, and any penalty or forfeiture en-

forceable under this act shall not be a bar to or affect a recovery for a right, or affect or bar any indictment against any public utility as herein defined, or person or persons operating such public utility, its officers, directors, agents or employees. *Same, sec. 37.*

NEW YORK

An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of commission under the railroad law may be brought in any court of competent jurisdiction in this state in the name of the people of the state, and shall be commenced and prosecuted to final judgment by counsel to commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if
4123 the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of commission the defendant was actually and in good faith prosecuting a suit, action or proceeding in the courts to set aside such order, the court shall remit the penalties of forfeitures incurred during the pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of commission upon such terms as the court shall approve and order. *Laws 1910, ch. 480, sec. 24.*

Any common carrier, railroad corporation or street railroad corporation which shall violate any provision of this chapter, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of commission, shall forfeit to the people of the state not to exceed the sum of \$5,000 for
4123 each and every offense; every violation of any such order or direction or requirement, or of this chapter, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. *Same, sec. 56(1).*

Every officer and agent of any such common carrier or corporation who shall violate, or who procures, aids or abets any violation by any such common carrier or corporation of any provision of this chapter, or who shall fail to obey, observe and comply with any order of commission or any provision of an order of
4124 commission, or who procures, aids or abets any such common car-

rier or corporation in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor. *Same, sec. 56(2).*

Any corporation, other than a common carrier, railroad corporation or street railroad corporation, which shall violate any provision of this chapter, or shall fail to obey, observe and comply with every order made by commission under authority of
4135 this chapter so long as the same shall be and remain in force, shall forfeit to the people of the state a sum not exceeding \$1,000 for each and every offense; every such violation shall be a separate and distinct offense, and the penalty or forfeiture thereof shall be recovered in an action as provided in section 24 of this chapter. *Same, sec. 58(1).*

Every person, who either individually or acting as an officer or agent of a corporation other than a common carrier, railroad corporation or street railroad corporation, shall violate any provision of this chapter, or fail to obey, observe or comply with any
4136 order made by commission under this chapter so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this chapter, or in its failure to obey, observe or comply with any such order, shall be guilty of a misdemeanor. *Same, sec. 58(2).*

In construing and enforcing the provisions of this chapter relating to forfeitures and penalties the act of any director, officer or other person acting for or employed by any common carrier,
4137 railroad corporation, street railroad corporation or corporation, acting within the scope of his official duties or employment, shall be in every case and be deemed to be the act of such common carrier, railroad corporation, street railroad corporation, or corporation. *Same, sec. 58(3).*

Any gas and any electrical corporation, or any person, officer, agent or employe thereof, who knowingly fails or neglects to obey or comply with such order, or any provision of this chapter, shall
4138 forfeit to the state not to exceed the sum of \$1,000 for each offense. Every distinct violation of any such order or of this chapter shall be a separate and distinct offense, and in case of a continuing violating each day shall be deemed a separate and distinct offense. *Same, sec. 73.*

Any telegraph or any telephone corporation which shall violate any provision of this article, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of commission, shall forfeit to the people of the state,

4139 not to exceed the sum of \$1,000 for each and every offense; every violation of any such order or direction or requirement, or of this article, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. *Same, sec. 102(1).*

An action to recover a penalty or forfeiture under this article may be brought at any time within one year after the cause of action accrues, in any court of competent jurisdiction in this state, in the name of the people of the state, on the relation of commission, and shall be commenced and prosecuted to final judgment by counsel to commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall 4140 not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of commission, the defendant was actually and in good faith prosecuting a suit, action or proceeding in the courts to set aside such order, the court shall remit the penalties or forfeitures incurred during the pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. *Same, sec. 102(2).*

NORTH CAROLINA If any railroad company by its agents or employes shall be guilty of a violation of the rules and regulations provided and prescribed by commission, and if after due notice of such violation given to the principal officers thereof, if residing in the state, or if not, to the manager or superintendent or secretary 4141 or treasurer if residing in the state, or if not, then to any local agent thereof, ample and full recompense for the wrong or injury done thereby to any person or corporation as may be directed by commission shall not be made within 30 days from the time of such notice, such company shall incur a penalty for each offense of \$500. *Pell's Revisal 1908, sec. 1086.*

Any railroad or other corporation which violates any of the provisions of this chapter or refuses to conform to or obey any rule, order or regulation of commission shall, in addition to the other penalties prescribed in this chapter, forfeit and pay the sum 4142 of \$500 for each offense, to be recovered in an action to be insti-

tuted in the superior court of Wake County, in the name of the state on the relation of commission; and each day such company continues to violate any provision of this chapter, or continues to refuse to obey or perform any rule, order or regulation prescribed by commission shall be a separate offense. *Same, sec. 1087.*

4148 If any railroad company shall violate the provisions of this chapter not otherwise provided for, such railroad company shall incur a penalty of \$100 for each violation, to be recovered by the party injured. *Same, sec. 1090.*

NORTH DAKOTA Except as otherwise specially provided in this article, and unless relieved from the consequence of a violation of the law, as provided in section 4357, any railroad, railroad corporation or common carrier, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for, or employed by it who alone or with any other corporation, company, person or party shall wilfully do, or cause to be done, or shall willingly suffer or permit to be done any act, matter or thing in this article prohibited or declared to be unlawful or who shall aid and abet 4144 therein, or shall wilfully omit or fail to do any act, matter or thing in this article required to be done or shall cause or willingly suffer, or permit any act, matter or thing so directed or required by this article to be done, not to be so done, or shall aid or abet any such omission, or failure, or shall be guilty of any infraction of this article, or shall aid or abet therein, shall be deemed guilty of a misdemeanor and shall upon conviction thereof in any district court of this state of competent jurisdiction be subject to a fine of not to exceed \$5,000 and not less than \$500 for each offense. *Rev. Codes 1905, sec. 4352.*

OHIO If a railroad fails or refuses to perform a duty enjoined upon it by the provisions of this chapter or does any act prohibited by such provisions, for which no penalty has been provided by law, or fails, neglects or refuses to obey a lawful requirement or order made by commission or order of any court, upon its 4148 application for each violation, failure or refusal, such railroad shall forfeit and pay into the state treasury, not less than \$100 nor more than \$10,000. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by a railroad, while acting within the scope of his employment, shall be the act, omission or failure of the railroad. *Code 1910, sec. 571.*

An action for the recovery of a forfeiture provided for in this

chapter, when prosecuted by the attorney general, may be brought in the court of common pleas of Franklin county or of any county having jurisdiction of the defendant. *Same, sec. 578.*

All forfeitures accruing under this chapter shall be cumulative and a suit for and recovery of one shall not bar the recovery of any other forfeiture. *Same, sec. 582.*

Unless otherwise provided by law, all prosecutions against a railroad or telegraph company or an officer, agent or employee thereof for forfeitures under the provisions of this chapter and other provisions of law, shall be by civil action in the name of the state. All prosecutions for penalties involving imprisonment shall be by indictment. *Same, sec. 610.*

If commission, the officer requested by it, or a city solicitor, when the cause of action arises in a municipality, fails or neglects to prosecute a civil action for forfeiture against a railroad, telegraph company, officer, agent or employee thereof as provided by law, the prosecuting attorney of the county in which a cause of action for forfeiture arises, upon the request of any tax payer thereof, and on being furnished with evidence which in his judgment will sustain it, shall bring such action. If such action fails the costs thereof shall be adjudged against the county. *Same, sec. 611.*

If a cause of action for forfeiture arises within a municipality, and commission, the officer requested by it or the prosecuting attorney as above provided, fails or neglects to prosecute such action, the city solicitor of such municipality, when required by resolution of the council, shall institute such action and prosecute it to final judgment. If such action fails, the costs therefor shall be adjudged against the municipality. The time for notice of appeal and giving a bond shall not apply to cases within the meaning of this and the preceding section. *Same, sec. 612.*

All moneys arising from prosecutions or from actions for forfeiture in the name of the state against a railroad or telegraph company, or against an officer or employee thereof, for violations of the provisions of law relating to railroads or telegraph companies shall be paid into the state treasury. *Same, sec. 613.*

Any public utility or railroad which violates any provision of this act, or which after due notice fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of commission officially promulgated shall forfeit and pay to the

state not to exceed \$1,000 for each such failure, omission or neglect and each day's continuance thereof shall be deemed and held to be a separate offense. *Laws 1911, no. 325, sec. 67.*

Whoever being an officer, agent or employe in an official capacity of a public utility or railroad, knowingly violates any provisions of this act, or wilfully fails, omits, or neglects to obey, observe or comply with any lawful order or direction of commission made with respect to any public utility or railroad shall be
4153 fined not less than \$100 nor more than \$1,000, or imprisoned not more than two years or both and each day's continuance of such failure, omission or neglect shall constitute a separate offense. *Same, sec. 68.*

Actions to recover penalties and forfeitures provided for in this act, shall be prosecuted in the name of the state, and may be brought in the court of common pleas of any county in which
4154 the public utility or railroad may be located. Such action shall be commenced and prosecuted by the attorney general, when directed so to do, by commission. Moneys recovered by such action shall be deposited in the state treasury to the credit of the general revenue fund. *Same, sec. 69.*

The act, omission or failure of any officer, agent or other person, acting for or employed by a public utility or railroad,
4155 while acting within the scope of his employment, shall be deemed and held to be the act or failure of the public utility or railroad. *Same, sec. 78.*

OKLAHOMA Any corporation failing or refusing to obey any valid order or requirement of commission, within reasonable time, not less than ten days, as shall be fixed in the order, may be fined by commission (proceeding by due process of law) such sum, not exceeding \$500 as commission may deem proper, or such sum, in excess of \$500, as may be prescribed or authorized
4156 by law; and each day's continuance of such failure or refusal after the service upon such corporation of the order or requirement of commission, shall be a separate offense; provided, that should the operation of such order or requirement be suspended, pending any appeal therefrom, the period of such suspension shall not be computed against the company in the matter of liability to fines or penalties. *Const., art. ix, sec. 19.*

Any corporation, person or firm may be fined by the corporation commission, such sum not exceeding \$500, as commission may deem proper, for the violation of any of its rules or requirements, and each day's continuance of such violation,

after due service upon such corporation, person or firm of the
4187 order or requirement of commission, shall be a separate offense;
provided, that should operation of such order or requirement be
suspended, pending an appeal therefrom, the period of such
suspension shall not be computed against the corporation, per-
son or firm, in the matter of its liability to fines and penalties.
Sess. Laws 1908, ch. 18, art. iii, sec. 1.

In case of failure of any corporation, person or firm to
obey or comply with any order or requirement of commission,
the commission may punish such corporation, person or firm,
as for contempt. Such contempt proceedings may be insti-
tuted by any citizen of this state, or other parties affected by
such order, by filing an affidavit with commission, setting forth
4188 the acts of omission or failure to comply with such order or
requirement. Upon the filing of such affidavit or information
above mentioned, it shall be the duty of commission to forward
to such offending corporation, person or firm a copy of such
affidavit or information, and shall also issue citation to such
corporation, person or firm to answer at a time to be fixed in
the citation, not less than ten days nor more than 20 days from
the date of the service of said citation. *Same, sec. 2.*

If the defendant shall fail to appear or file answer on the
day mentioned in the citation, such failure to appear or file
answer shall be deemed an admission of the truth of each and
every material allegation in such affidavit, or information, and
the commission may render judgment without further hearing
or testimony, or commission may in its discretion require addi-
tional evidence before rendering judgment in any case of de-
fault. Upon the appearance and filing of answer of the defend-
ant, such appearance may be by plea, demurrer or answer, and
when the issue shall have been settled, commission may hear
evidence as to the matters and facts in reference to the alleged
violation of the order or requirement, and may continue the
hearing from time to time, and the defendant shall be given
ample opportunity to introduce proper evidence and be fully
heard in the premises. Upon the conclusion of the evidence
and arguments of counsel, commission shall render judgment, a
copy of which shall be delivered to the defendant, and the de-
fendant shall have five days from the receipt of copy of the
judgment to file its exceptions thereto, and shall be allowed to
appeal from the judgment of commission, upon its filing a bond
with the commission, in double the amount of such fine or

judgment, with such security as may be required by commission, to the supreme court, as provided in other cases. Upon filing of such bond with commission and allowing of the appeal, the same shall operate a suspension of fine and judgment appealed from; provided, that if the order violated for which such fine or judgment is imposed shall have been an order promulgating or fixing rates to be charged by public service corporations, persons or firms, it shall be necessary in appealing
4189 from such fine or judgment for the defendant to give a suspending bond, executed and filed with and approved by commission, payable to the state, and sufficient in amount and security to insure the prompt refunding by the appealing corporation, person or firm, to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of those fixed or authorized by the order of commission violated or disregarded by such corporation, person or firm. Such bond shall be conditioned to require such corporation, person or firm to keep such accounts and to make to the commission from time to time such report, verified by oath, as may in the judgment of the commission suffice to show the amount being charged or received by the company, pending the appeal, in excess of the charge prescribed by commission in the order violated, together with the names and addresses of persons to whom such overcharges will be refunded in case the charges made by the company pending the appeal be not sustained on the final judgment, and commission may at any time require such corporation, person or firm to give additional security or to increase the suspending bond when the same may appear to commission to be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final judgment, if the order violated is sustained in the supreme court, commission shall distribute such overcharges to the persons to whom the same are due, as provided in sec. 21, art. ix, of the constitution; provided, further, that if the order violated is one fixing or establishing rates and the corporation, person or firm shall obey such order and carry its provisions into effect pending such appeal, the last above mentioned bond shall not be required. *Same, sec. 3.*

All judgments or fines assessed against any corporation, person or firm for the violation of any order or relinquishment, as herein provided, shall be a first lien on all property of such

corporation, person or firm within this state, and it shall be the duty of commission, if such judgment or fine is not paid within 30 days after the rendition of such judgment or fine, to issue
4160 an execution, directed to the marshal of commission, commanding him to seize sufficient property of such corporation, person or firm, to satisfy the fine of judgment, and it shall be the duty of the marshal to sell or dispose of properties levied on by reason of an execution issued by commission, in like manner as now required by sheriffs of this state, for the sale of property levied on by virtue of an execution issued on a judgment of a district court. *Same, sec. 5.*

4161 All moneys collected by commission under this act shall be paid into the treasury of the state. *Same, sec. 7.*

In all cases where fines or judgments are assessed against an offending corporation, person or firm, for the violation of any order or requirement of the commission, as provided in this act, judgment shall be rendered against the defendant for all costs which shall include the following: Witness fees at \$1.50 per day, with necessary mileage at 5 cents per mile, to
4162 and from the place of hearing to the residence of the witness. The fees of the marshal to commission, the same as now allowed to sheriffs for like services in this state; \$10 docket fee, including all fees for filing and certifying papers and documents, except necessary fee for transcribing the record, 10 cents for each folio of 100 words; and in the supreme court the same fees as are charged in cases appealed from the district court of this state to the supreme court. *Same, sec. 8.*

OREGON

If any railroad (public utility) shall violate any provision of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by commission (or council) or any judgment or decree made by any court upon its application, for every such violation, failure, or refusal, such railroad (public utility) shall forfeit and pay into the state treasury, a sum of not less than \$100, nor more than
4163 \$10,000 for such offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent, or other person acting for or employed by any railroad (public utility), acting within the scope of his employment, shall in every case be deemed to be the act, omission, or failure of such railroad (public utility). All penalties, fines or forfeitures, or

other sums collected or paid under the provisions of this act, shall be paid into the general fund of the state treasury, except where it is provided the same shall be paid to the aggrieved party. *Gen. Laws 1907, ch. 53, sec. 53. Gen. Laws 1911, ch. 279, sec. 69.*

This act shall not have the effect to release or waive any right of action by the state or by any person for any rights, penalty or forfeiture which may have arisen or which may here-
4104 after arise under any law of this state; and all penalties and forfeitures accruing under this act shall be cumulative and a suit for, and recovery of one, shall not be a bar to the recovery of any other penalty. *Gen. Laws 1907, ch. 53, sec. 60.*

This act shall not have the effect to release or waive any right of action by the state or by any municipality thereof, or by any person for any right, penalty, or forfeiture which may have arisen or which may hereafter arise under any law of this state or under any law or ordinance of any municipality thereof; and all penal-
4105 ties and forfeitures accruing under this act shall be cumulative and a suit for, and recovery of one, shall not be a bar to the recovery of any other penalty. The duties and liabilities of public utilities shall be the same as at common law and the remedies against them the same, except where otherwise provided by the constitution or statutes of this state, and the provisions of this act are cumulative thereto. *Gen. Laws 1911, ch. 278, sec. 76.*

RHODE ISLAND Every public utility which shall violate any of the provisions of this act or which fails, omits, or neglects to obey, observe, or comply with, any order of commission, shall be subject to a penalty of not less than \$200, nor more than \$500 for each and every offense. Every violation of such order shall be a separate and distinct offense and in case of a continuing violation, every day's continuance thereof shall be, and be deemed to be, a separate and distinct offense. Every officer, agent or employe of a public utility who shall violate any of the provisions of this act, or who procures, aids, or abets, any such violation by any
4106 such public utility, or who shall fail to obey, observe, or comply with, any order of commission, or any provision of an order of commission, or who procures, aids, or abets any such public utility in its failure to obey, observe, or comply with, any such order or provision, shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility, acting within the scope of his employment, shall in

every case be deemed to be also the act, omission or failure of such public utility. *Acts 1912, ch. 795, sec. 30.*

An action to recover a penalty or forfeiture under this act, shall be brought in any court of competent jurisdiction in this state in the name of the state and shall be commenced and prosecuted to final judgment by commission. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury. Any such action may be discontinued or compromised on application of commission upon such terms as the court shall approve and order. *Same, sec. 32.*

Any public utility which shall violate any provision of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, shall be subject to a penalty of not less than \$200, nor more than \$500, and in case of a continuing violation of any of the provisions of this act, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. *Same, sec. 56.*

SOUTH CAROLINA If any railroad company doing business in this state, by its agents or employes, shall be guilty of a violation of the rules and regulations provided and prescribed by commission, and, if after due notice of such violation given to the principal officer thereof, ample and full recompense for the wrong or injury done thereby to any person or corporation, as may be directed by commission, shall not be made within 30 days from the time of such notice, such company shall incur a penalty for each offense of not less than \$1,000 nor more than \$5,000 to be fixed by the presiding judge. An action for recovery of such penalty shall lie in any court in the state where such violation has occurred or wrong has been perpetrated, and shall be in the name of the state. Commission shall institute such action through the attorney general or any of the solicitors of the state. *Gen. Stats. 1902, sec. 2116.*

Any railroad in this state refusing to obey any order of commission made under this chapter shall forfeit not less than the sum of \$500 nor more than \$2,000 to be recovered by the suit of commission, in a suit in the court of common pleas, which sum, if recovered, shall go to the general fund of this state. *Same, sec. 2164.*

Any person, firm or corporation owning or operating any telephone line, stations or exchange in this state, for the transmission of intelligence for hire, who shall wilfully violate any

of the provisions of this act, or fail or refuse to obey any of the orders of said commission, shall forfeit and pay as a penalty therefor the sum of \$25 per day for each day in default, to be
4171 recovered by suit in the name of the state on the relation of any person, firm or corporation aggrieved, in any county in which such violation or default shall be committed or occur. And the sum so recovered shall, after paying all expenses of said suit, be paid into the treasury of the state. It shall be the duty of the attorney general and of the solicitors of the state to prosecute said suits. *Laws 1904, no. 281.*

SOUTH DAKOTA Except as otherwise hereinafter specially provided for, or relieved from the consequences of a violation of the law, any common carrier, or whenever any such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such corporation who, alone, or with any other corporation, company, person or party, shall wilfully do, or cause to be done, or shall
4172 wilfully suffer or permit to be done any act, matter or thing in this article prohibited or declared to be unlawful, or who shall aid or abet therein or shall wilfully omit or fail to do any act, matter or thing in this article required to be done, or shall cause or wilfully suffer or permit any act, matter or thing so directed or required by this article to be done, not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this article or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any circuit court of this state be subject to a fine of not to exceed \$5,000 and not less than \$500 for each offense. *Sess. Laws 1911, ch. 207, sec. 14.*

In addition to any penalty imposed or remedy provided in this article, it is further provided that if any railroad corporation (common carrier) shall wilfully continue to neglect or refuse to comply with the provisions of this article, or with any reasonable
4173 order or regulation of commission, such neglect or refusal shall cause a forfeiture of the franchises of said corporation, if the same be a domestic corporation, and if the same be a foreign corporation, such neglect or refusal shall cause a forfeiture of all right and privilege to transact its business within this state. *Rev. Pol. Code 1903, sec. 471. Sess. Laws 1911, ch. 207, sec. 45.*

It is hereby made the duty of the attorney general of the state to commence an action in any court of this state of competent jurisdiction, against any common carrier, for the purpose of

4174 having its corporate franchise forfeited, or for the purpose of having it perpetually enjoined from transacting any business within this state, whenever commission shall report to said attorney general that any common carrier has violated the provisions of section 45. *Same, sec. 46.*

Every owner or operator of a telephone line and any officer or agent of any telephone company, who shall violate, neglect, fail or refuse to comply with any provision of this act, or who shall 4175 violate, neglect, fail or refuse to comply with any lawful order, rule or regulation of commission, shall, upon conviction thereof, be punished by a fine of not less than \$200 nor more than \$1,000 in the discretion of the court. *Sess. Laws 1911, ch. 218, sec. 9.*

TENNESSEE

If any railroad company, corporation or lessee shall wilfully violate any of the provisions of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any 4176 duty enjoined upon it by the provisions of this act for which penalty has not herein been provided, for each and every such act of violation it shall pay to the state a penalty of not less than \$50 nor more than \$100. *Acts 1897, ch. 10, sec. 25.*

TEXAS

If any railway company shall hereafter violate any provision of this chapter, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for 4177 which a penalty has not been provided by law, or shall fail, neglect or refuse to obey any lawful requirement, order, judgment, or decree made by commission, for every such act of violation it shall pay to the state a penalty of not more than \$5,000. *Sayles' Civ. Stats. 1897, art. 4576.*

All the penalties herein provided, except as provided in article 4575, shall be recovered and suits thereon shall be brought in the name of the state in the proper court having jurisdiction thereof in Travis county, or in any county to or through which such railroad may run, by the attorney general, or under his direction; and the attorney bringing such suit shall receive a 4178 fee of \$50 for each penalty recovered and collected by him, and ten per cent. of the amount collected, to be paid by the state. In all suits arising under this chapter the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this chapter shall be paid into the treasury of the state. *Same, art. 4577.*

This law shall not have the effect to release or waive any

right of action by the state or any person for any right, penalty or forfeiture which may have arisen, or may hereafter arise, 4179 under any law of this state; and all penalties accruing under this chapter shall be cumulative of each other, and a suit for recovery of one shall not be a bar to the recovery of any other penalty; and all laws and parts of laws in conflict with this chapter are repealed. *Same, art. 4581.*

VIRGINIA

Any corporation failing or refusing to obey any valid order or requirement of commission, within such reasonable time, not less than ten days, as shall be fixed in the order, may be fined by commission (proceeding by due process of law) such sum, not exceeding \$500, as commission may deem proper, or such sum, in excess of \$500 as may be prescribed or authorized 4180 by law; and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of commission shall be a separate offense; provided, that should the operation of such order or requirement be suspended pending an appeal therefrom, the period of such suspension shall not be computed against the company in the matter of its liability to fines or penalties. *Const., sec. 156(c).*

Any transportation company or corporation which violates any of the provisions of this chapter, or refuses to conform to or obey any lawful rule, order, or regulation of commission relating to the provisions of this chapter, may, when not otherwise provided in this chapter, be fined by commission, in its discretion, 4181 in sum not exceeding \$500 for each offense, and each day such company or corporation continues to violate any provision of this chapter, or continues to refuse to obey or perform any lawful rule, order, or regulation prescribed by commission shall be a separate offense. *Pollard's Code 1904, sec. 1294c(23).*

If any railroad, when directed by a valid order of commission, shall refuse or fail to remove the cause of complaint of the authorities of any incorporated city or town in which such railroad 4182 is located, as to the physical condition or operation of such railroad, it shall, in the discretion of commission be fined not less than \$10 nor more than \$1,000. *Same, sec. 1294d(68).*

Any railroad company failing to comply with, or violating, or permitting any of its agents or employees to violate, any of the 4183 provisions of this chapter, or any valid order, rule, or regulation of commission, relating to the provisions of this chapter, if not otherwise provided in this chapter, shall be fined not less than \$10 nor more than \$500 for each offense. *Same, sec. 1294d(70).*

Commission may enforce against any corporation, by its judgments and processes, any fine or other penalty imposed by
4184 law for the failure of any such corporation to perform any public duty required of it, or to comply with any requirement of law, or any lawful regulation of commission in reference to same. *Same, sec. 1313a(16).*

WASHINGTON Any public service company which shall violate or fail to comply with any provision of this act, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of commission,
4185 shall be subject to a penalty of not to exceed the sum of \$1,000 for each and every offense. Every violation of any such order, direction or requirement of this act shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense. *Laws 1911, ch. 117, sec. 94.*

Every officer, agent or employe of any public service company, who shall violate or fail to comply with, or who procures, aids or abets any violation by any public service company of any provision of this act, or who shall fail to obey, observe or
4186 comply with any order of commission, or any provision of any order of commission, or who procures, aids or abets any such public service company in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor. *Same, sec. 95.*

Every corporation, other than a public service company, which shall violate any provision of this act, or which shall fail to obey, observe or comply with any order of commission under authority of this act, so long as the same shall be and re-
4187 main in force, shall be subject to a penalty of not to exceed the sum of \$1,000 for each and every offense. Every such violation shall be a separate and distinct offense, and the penalty shall be recovered in an action as provided in section 98 of this act. *Same, sec. 96.*

Every person who, either individually, or acting as an officer or agent of a corporation other than a public service company, shall violate any provision of this act, or fail to observe, obey or
4188 comply with any order made by commission under this act, so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this act, or in its failure to obey, observe or comply with any such order, shall be guilty of a gross misdemeanor. *Same, sec. 97.*

Actions to recover penalties under this act shall be brought in the name of the state in the superior court of Thurston county, or in the superior court of any county in or through which such
4189 public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this act shall be paid into the treasury of the state. *Same, sec. 98.*

This act shall not have the effect to release or waive any right of action by the state or any person for any right, penalty or forfeiture which may have arisen or may hereafter arise under any law of this state; and all penalties accruing under this act shall be cumulative of each other, and a suit for the
4190 recovery of one penalty shall not be a bar to the recovery of any other; provided, that no contract, receipt, rule or regulation shall exempt any corporation engaged in transporting live stock by railway from liability of a common carrier, or carrier of live stock, which would exist had no contract, receipt, rule or regulation been made or entered into. *Same, sec. 104.*

WISCONSIN

If any railroad shall violate any provision of this act, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by commission, or any judgment or decree made by any court upon its application, for every
4191 such violation, failure, or refusal, such railroad shall forfeit and pay into the state treasury a sum of not less than \$100 nor more than \$10,000 for each offense. In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any railroad, acting within the scope of his employment, shall in every case be deemed to be the act, omission or failure of such railroad. *Laws 1905, ch. 362, sec. 1797-27.*

This act shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may have arisen or which may hereafter arise,
4192 under any law of this state; and all penalties and forfeitures accruing under this act shall be cumulative and a suit for and recovery of one shall not be a bar to the recovery of any other penalty. *Laws 1905, ch. 362, sec. 1797-34. Laws 1907, ch. 499, sec. 1797m-104.*

If any public utility shall violate any provision of this act, or

shall do any act herein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by commission or the municipal council or any judgment or decree made by any court upon its application, for every such violation, failure, or refusal, such public utility shall forfeit and pay into the treasury a sum not less than \$100 nor more than \$1,000 for each offense. *Laws 1907, ch. 499, sec. 1797m-95(1).*

In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility acting within the scope of his employment shall in every case be deemed to be the act, omission or failure of such public utility. *Same, sec. 1797m-95(2).*

Every day during which any public utility or any officer, agent or employe thereof, shall fail to observe and comply with any order or direction of commission or to perform any duty enjoined by this act shall constitute a separate and distinct violation of such order or direction of this act as the case may be. *Same, sec. 1797m-98.*

D. LIABILITY OF UTILITIES TO PATRONS FOR VIOLATIONS OF PROVISIONS OF LAW.

1. General Damages.

UNITED STATES In case any common carrier shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case. *Act to Regulate Commerce, sec. 8.*

If, after hearing on a complaint made as provided in section 13 of this act commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named. *Same, sec. 16.*

If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any state court of general jurisdiction having jurisdiction of the parties a petition setting forth briefly the causes for which he claims damages, and the order of commission in the premises. Such suit in the circuit court of the United States shall proceed in all respects like other civil suits for damages, except that on 4198 the trial of such suit the findings and order of commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. All complaints for the recovery of damages shall be filed with commission within two years from the time the cause of action accrues, and not after, and a petition for the enforcement of an order for the payment of money shall be filed in the circuit court or state court within one year from the date of the order, and not after. *Same.*

In such suits all parties in whose favor commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs 4199 could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs against the defendant found to be liable to such plaintiff. *Same.*

Every order of commission shall be forthwith served upon 4200 the designated agent of the carrier in the city of Washington or in such other manner as may be provided by law. *Same.*

ARIZONA In case any public service corporation shall do, cause to be done, or permit to be done, any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall

omit to do any act, matter or thing required to be done, either by the constitution, any law of this state or any order or decision of commission, such public service corporation shall be liable
4201 to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was wilful, the court may in addition to the actual damages award damages for the sake of example and by way of punishment. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any corporation or person. *Sess. Laws 1912, ch. 90, sec. 73(a).*

No recovery as in this section provided shall in any manner
4202 affect a recovery by the state of the penalties in this act provided or the exercise by commission of its power to punish for contempt. *Same, sec. 73(b).*

ARKANSAS

Each and every act, matter or thing in this act declared to be unlawful is hereby prohibited; and in case any person or corporation, engaged as aforesaid, shall not do or permit to be done any act, matter or thing in this act required to be done, or shall be guilty of the violations of any of the provisions of this act, such person or corporation shall be held to pay to the person, firm or corporation injured thereby, double the amount of damages so sustained and all costs, to be recovered by the person,
4203 son, firm or corporation so damaged, in any court having jurisdiction of the amount, where the person or corporation causing the damage can be found, or has an agent or place of business. No action aforesaid shall be sustained unless brought within one year after the cause of action, or within one year after the party complaining shall have come to the knowledge of his or her right of action. And as many causes of action as may have accrued within the year to any one person, firm or company, may be joined in the same suit or complaint. *Kirby's Digest 1904, sec. 6808.*

CALIFORNIA

Identical with pars. 4201, 4202, except that
4204 "public service corporation" reads "public utility." *Stats. 1911, 1st. ex. sess., ch. 14, secs. 73(a), 73(b).*

COLORADO

In case any common carrier shall do, cause to be done or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do
4205 any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured

thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act. *Laws 1910, sp. sess., ch. 5, sec. 8.*

If the common carrier does not comply with an order for the payment of money within the time limit of such order of commission, the complainant, or any person for whose benefit such order was made, may file in any district court of the state
4206 having jurisdiction of the common carrier, a petition setting forth briefly the cause for which he claims damages, and the order of commission in the premises; such suit shall proceed in all respects like other civil suits for damages, except that upon the trial of such suit the findings and order of commission shall be prima facie evidence of the facts therein stated. *Same, sec. 16.*

FLORIDA If any railroad, railroad company or other common carrier doing business in this state, shall, in violation or disregard of any rule, rate or regulation provided by commission, inflict any wrong or injury on any person, it shall be the
4207 duty of commission if requested by such injured person to institute proceedings to compel restitution and to enforce the penalty incurred in any court having jurisdiction, and such action by commission shall preclude settlement by the party or parties injured without the consent of commission. *Gen. Stats. 1906, sec. 2910, as amended by Laws 1907, ch. 5624.*

GEORGIA In case a common carrier, or other corporation or company mentioned in this act, shall do, cause to be done, or permit to be done, any act, matter or thing prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of the state, by this act, or by any order of commission, such common carrier or other corporation or company shall be liable to the persons or corporations
4208 affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the jury shall find that such act or omission was wilful, it may fix a reasonable counsel's or attorney's fee, which fee shall be taxed and collected as part of the cost in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation. *Code 1911, sec. 2566.*

ILLINOIS If any warehouseman of class A shall be guilty of a violation of any of the provisions of this act, it shall be lawful for any person injured by such violation to bring suit in any court

of competent jurisdiction, upon the bond of such warehouseman, in the name of the people of the state, to the use of such person.

4209 In all criminal prosecution against a warehouseman for the violation of any of the provisions of this act, it shall be the duty of the prosecuting attorney of the county in which such prosecution is brought, to prosecute the same to a final issue, in the name of and on behalf of the people of the state. *Revisal 1909, ch. 114, sec. 155.*

This act shall not be so construed as to waive or affect the right of any person, injured by the violation of any law in regard 4210 to railroad companies, other common carriers or warehouses, from prosecuting for his private damages in any manner allowed by law. *Same, sec. 185.*

INDIANA

In case any railroad company shall do, cause to be done, or permit to be done, any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad company shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violations, and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then, in addition to such damages, such railroad company shall pay to the 4211 person, firm or corporation injured thereby a penalty of not less than \$100 nor more than \$500, to be recovered by civil action in any court of competent jurisdiction in any county into or through which such railroad may run; provided, that such company may plead and prove as a defense to the action for such penalty that such overcharge was unintentionally and innocently made through a mistake of fact; provided, that such recovery as herein provided shall in no manner affect a recovery by the state of any penalty provided for such violation. *Burns' Annot. Stats. 1908, sec. 5546.*

IOWA

Nothing in this or the succeeding chapter shall be construed to estop or hinder any persons or corporations 4212 from bringing action against any railway company for any violation of the laws of the state for the government of railroads. *Code 1897, sec. 2118.*

In case any common carrier shall do, cause or permit to be done anything herein prohibited or declared to be unlawful, or shall omit to do anything in this chapter required to be done, it shall be liable to the person or persons injured there-

by for three times the amount of damages sustained in consequence, together with costs of suit, and a reasonable attorney's fee to be fixed by the court, on appeal or otherwise, which shall be taxed and collected as part of the costs in the case; but in all cases demand in writing shall be made for money damages sustained before action is brought for recovery under this section, and no action shall be brought until the expiration of 15 days after such demand. *Same, sec. 2130.*

KANSAS

Any person, firm, association or corporation which shall fail or refuse to accept, transport and deliver oil when offered, up to the full capacity of such pipe line, at rates not to exceed those provided for by this act, or shall fail, neglect or refuse to obey any rule so established by commission, shall be liable to the person injured by such failure or refusal in the sum \$500 liquidated damage, together with reasonable attorney's fees, to be fixed by the court, in case suit shall be brought therefor; such liquidated damages and attorney's fees to be recovered in any court of competent jurisdiction; and in case of any corporation so refusing or failing, the charter board is hereby authorized to revoke the charter or permit to do business in this state of such corporation. *Gen. Stats. 1909, sec. 3965.*

Any railroad company which shall violate or evade any of the provisions of this section shall forfeit, for every such offense, to the person, company or corporation injured thereby, three times the actual damages sustained by the party aggrieved. *Same, sec. 7192.*

Any railroad company which shall violate any of the provisions of this act shall forfeit, for every such offense, to the person, company or corporation aggrieved thereby, three times the actual damages sustained by the said party aggrieved, together with the costs of suit, and a reasonable attorney fee, to be fixed by the court; and if an appeal be taken from the judgment or any part thereof, it shall be the duty of the appellate court to include in the judgment an additional reasonable attorney's fee for services in the appellate court or courts. *Same, sec. 7222.*

Nothing in this act shall be construed to estop or hinder any person or corporation from bringing suit against any such railroad company for any violation of any of the laws of this state for the government of railroads. *Same, sec. 7224.*

In any action against any railroad company for violations of the provisions of this act, the plaintiff may join in the same

petition as many different causes of action as he may have against such company arising under this act. *Same, sec. 7225.*

MICHIGAN

If any common carrier shall do or cause to be done, or permit to be done, any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, or by any lawful order made under the provisions of this act by commission, such common carrier shall be liable to the person, firm or corporation injured thereby in double the amount of damages sustained in consequence of such violation; provided, that any recovery as is in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation. *Pub. Acts 1909, no. 300, sec. 19.*

All claims against any common carrier for loss or damage to property from any cause, or for overcharge upon any shipments, or for any other service, if not acted upon within 90 days from the date of filing of such claim with the common carrier may be investigated by commission in its discretion, and the result of such investigation may be embodied in a special report and the next annual report of commission. *Same, sec. 42.*

MINNESOTA

Nothing in this chapter shall be construed to abridge or limit the duties and liabilities of common carriers or warehousemen, or the remedies now existing at common law or by statute, and the provisions of this chapter are in addition thereto. Any common carrier or warehouseman who shall do or cause to be done any act in this chapter forbidden, or fail to do any act therein enjoined or who shall aid or abet in any such act or neglect shall be liable in damages to any person injured thereby; and in any action for such damages the plaintiff, if he recover, shall be allowed by the court a reasonable attorney's fee, to be taxed and allowed in addition to statutory costs. *Rev. Laws 1905, sec. 1986.*

When suit is brought to collect any of the damages, forfeitures or demurrage charges, provided for in this act, said suit may be brought in any court in this state having jurisdiction of the subject matter and parties under the then existing cause; and if the plaintiff therein recover judgment such plaintiff shall also recover a reasonable attorney's fee for bringing such suit, to be taxed as costs in other cases and paid as other costs by defendant in such suit. *Laws 1907, ch. 23, sec. 13.*¹

¹ Car service and demurrage act.

MISSOURI

In case any common carrier shall do or cause to be done any act or thing in sections 3179 to 3207 inclusive, prohibited or declared to be unlawful, or shall omit to do any act or thing in said sections required to be done, then such common carrier shall be liable to the person or persons injured thereby for three times the amount of damages sustained in consequence of the violation of the provisions of said sections, together with a reasonable attorney's fee, to be fixed by the court, which fee shall be taxed and collected as part of the costs in the case. *Rev. Stats. 1909, sec. 3191.*

Any person or persons claiming to be damaged by any common carrier by reason of any violation of the provisions of sections 3179 to 3207, inclusive, may bring suit therefor in any circuit court of any county or city into or through which the line operated by such common carrier enters or passes, and such person or persons may make complaint as hereinafter provided to commission. And if any proceeding is commenced under the provisions of said sections, either in a court or before commission, the tribunal before which such proceeding shall be pending may compel any director, officer, receiver, trustee, agent or employe of the common carrier complained of in such suit to attend as a witness and testify in such proceeding and may also compel the production of the necessary books, papers and documents of such common carriers. *Same, sec. 3192.*

NEVADA

All claims against any railroad for loss of or damage to property from any cause, or for overcharge upon any shipments, or for any other service if not acted upon within 90 days from the date of the filing of such claim with the railroad, may be investigated by commission, in its discretion, and the result of such investigation shall be duly recorded and filed in the archives of commission, be open to examination by the public, and be embodied in commission's next regular report. *Stats. 1907, ch. 44, sec. 32, as amended by Stats. 1909, ch. 121, sec. 10.*

NEW YORK

In case a common carrier shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful or shall omit to do any act, matter or thing required to be done, either by any law of the state, by this chapter or by any order of commission, such common carrier shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that

such act or omission was wilful, it may in its discretion fix a reasonable counsel or attorney's fee which fee shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by such person or corporation. *Laws 1910, ch. 480, sec. 40.*

In case any telegraph or telephone corporation shall do or cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or other thing required to be done, either by law of the state by this chapter or by any order of commission, such telegraph or telephone corporation shall be liable to the person
4227 or corporation affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that such an act or omission was wilful, it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as a part of the costs in the action. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation. *Same, sec. 93.*

NORTH CAROLINA If any railroad company doing business in this state shall, in violation of any rule or regulation provided by commission, inflict any wrong or injury on any person, such person shall have a right of action and recovery for such wrong or injury, in any court having jurisdiction thereof, and the damages to be
4228 recovered shall be the same as in an action between individuals, except that in case of wilful violation of laws such railroad company shall be liable to exemplary damages; provided, that all suits under this chapter shall be brought within one year after the commission of the alleged wrong or injury. *Pell's Revisal 1908, sec. 1091.*

An action for the recovery of any penalty under this chapter shall be instituted in the county in which the penalty has been incurred, and shall be instituted in the name of the state on the relation of commission against the company incurring such penalty; or whenever such action is upon the complaint of any injured person or corporation, it shall be instituted in the name of the state on the relation of commission upon the complaint of such injured person or corporation against the company incurring
4229 such penalty. Such action shall be instituted and prosecuted by the attorney general or the solicitor of the judicial district in which such penalty has been incurred, and the judge before

whom the same is tried shall determine the amount of compensation to be allowed the attorney general or such solicitor prosecuting said action for his services, and such compensation so determined shall be taxed as part of the cost. The procedure in such actions, the right of appeal and the rules regulating appeals shall be the same as are now provided by law in other civil actions. *Same, sec. 1092.*

The remedies given by this chapter to persons injured shall be regarded as cumulative to the remedies now given or which
4290 may be given by law against railroad corporations, and this chapter shall not be construed as repealing any statute giving such remedies. *Same, sec. 1093.*

Every claim for loss of or damage to property while in possession of a common carrier shall be adjusted and paid within 60 days in case of shipments wholly within this state, and within 90 days in case of shipments from without the state, after the filing of such claim with the agent of such carrier at the point of destination of such shipment or point of delivery to another common carrier; provided, that no such claim shall be filed until after the arrival of the shipment, or some part thereof, at the point of destination, or until after the lapse of a reasonable time for the arrival thereof. In every case such common carrier shall be liable for the amount of such loss or damage, together
4231 with interest thereon from the date of the filing of the claim therefor until the payment thereof. Failure to adjust and pay such claim within the periods respectively herein prescribed shall subject each common carrier so failing to a penalty of \$50 for each and every such failure, to be recovered by any consignee aggrieved in any court of competent jurisdiction; provided, that unless such consignee recover in such action the full amount claimed, no penalty shall be recovered, but only the actual amount of the loss or damage, with interest as aforesaid. Causes of action for the recovery of the possession of the property shipped for loss or damage thereto and for the penalties herein provided for may be united in the same complaint. *Same, sec. 2634.*

NORTH DAKOTA When any one licensed to do business as a public storage company or as a public warehouseman fails to perform his duty, or violates any of the provisions of this article, any person, persons or corporations injured by such failure or violation may, with the consent of the attorney general, bring an action
4232 in the name of the state, but to his or their own use, in any court

of competent jurisdiction, on the bond of such company or warehouseman. In such action the person, persons or corporation in whose behalf the action is brought shall file with the court a satisfactory bond for costs, and the state shall not be liable for any costs. *Rev. Codes 1905, sec. 2264.*

In case any railroad, railroad corporation or common carrier subject to the provisions of this article shall do, cause to be done, or permit to be done, any act, matter or thing in this article prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing in this article required to be done, it shall be liable to the person or persons injured thereby, for three times the amount of damages sustained in consequence of any violation
4233 of the provisions of this article, together with costs of suit and a reasonable counsel or attorney's fee to be fixed by the court in which the same is heard on appeal or otherwise, which shall be taxed and collected as part of the costs in the case; provided, that in all cases, demand in writing on said railroad, railroad corporation or common carrier shall be made for the money damages sustained before suit is brought for recovery under this section and that no suit shall be brought until the expiration of 15 days after such demand. *Same, sec. 4349.*

Nothing in this article contained shall in any way abridge
4234 or alter the remedies now existing at law or in equity, but the provisions of this article are in addition to such remedies. *Same, sec. 4379.*

OHIO

If a railroad does, causes or permits to be done any matter, act or thing in this chapter prohibited or declared to be unlawful, or omits to do an act, matter or thing required to be done, by this chapter, such railroad shall be liable to the
4235 person, firm, or corporation injured thereby in treble the amount of damages sustained in consequence of such violation. A recovery provided by this section shall not affect a recovery by the state of the penalty prescribed for such violation. *Code 1910, sec. 569.*

All claims, charges or demands against a railroad for loss of, or damage to, property, occurring while in the custody of such carrier or for overcharges upon a shipment or for any other service in violation of this chapter, if not paid within 120 days from the date of filing thereof with the railroad, may be
4236 submitted to commission by a formal complaint. If, upon hearing thereof, commission determine that the party complaining is entitled to any reward for loss and damage to property or

overcharge upon shipments or for any other service, it shall make an order directing the carrier, on or before a day named, to pay to the complainant the sum to which he is entitled. *Same, sec. 579.*

If the railroad does not comply with an order within the time prescribed, the complainant or any one for whose benefit such order was made may file in any court of competent jurisdiction of the county or district in which he resides or in which is located any portion of the line of railroad, a complaint setting forth the causes for which he claims damages and the order of commission in the premises. Such action shall then proceed as in other civil
4237 actions for damages, except that on trial thereof a copy of the findings and order of commission, duly certified by the secretary thereof, shall be competent testimony and shall be prima facie evidence of the facts therein stated, and except that the plaintiff shall not be liable for any costs unless they accrue upon his appeal. Service in all cases under this section shall be the same as in other actions against common carriers. *Same, sec. 580.*

If any public utility or railroad does, or causes to be done, any act, matter, or thing prohibited by this act, or declared to be unlawful, or shall omit to do any act, matter or thing required
4238 by this act, or by order of commission, such public utility or railroad shall be liable to the person, firm or corporation injured thereby in treble the amount of damages sustained in consequence of such violation, failure or omission; provided, that any recovery under this section shall in no manner affect a recovery by the state for any penalty provided for in this act. *Laws 1911, no. 325, sec. 71.*

OKLAHOMA The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit, or motion against any transportation or transmission company, for any claim or cause of action against such company, shall not be extinguished or impaired, by reason of any fine or other penalty which commission may impose, or be authorized to impose, upon such company because of its breach of any public duty, or because of its failure to comply with any order or requirement of commission; but, in no such proceeding by any
4239 person against such corporation, nor in any collateral proceeding shall the reasonableness, justness or validity of any rate, charge, classification of traffic, rule, regulation, or requirement, theretofore prescribed by commission, within the scope of its authority, and then in force, be questioned; provided, however,

that no case based upon or involving any order of commission shall be heard or disposed of, against the objection of either party, so long as such order is suspended in its operation by an order of the supreme court as authorized by this constitution or by any law passed in pursuance thereof. *Const., art. ix, sec. 24.*

OREGON

If any railroad shall do or cause to be done or permit to be done any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, such railroad shall be liable to the person, firm or corporation injured thereby in treble the amount of damages sustained in consequence of such violation, together with a reasonable counsel or attorney's fee, to be fixed 4240 by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case; provided, that any recovery as in this section provided, shall in no manner affect a recovery by the state of the penalty prescribed for such violation, and that the damages provided in section 6904 (Lord's Oregon Laws), awarded the aggrieved party by reason of cars not being furnished when applied for shall be in lieu of the treble damages awarded by this section. *Gen. Laws 1907, ch. 53, sec. 51.*

All claims against any railroad for loss of or damage to property from any cause, or for overcharge upon any shipments, or for any other service, if not acted upon within 90 days from the 4241 date of filing of such claim with the railroad, may be investigated by commission, in its discretion, and the results of such investigation shall be embodied in a special report which shall be open to the public inspection and may be included in the next annual report of commission. *Same, sec. 58.*

If any public utility shall do or cause to be done or permit to be done any matter, act or thing in this act prohibited, or declared to be unlawful or shall omit to do any act, matter or thing required to be done by it, such public utility shall be liable to the person, firm or corporation injured thereby in treble the amount 4242 of damages sustained in consequence of such violation, together with a reasonable counsel's or attorney's fee to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case; provided that any recovery as in this section provided shall in no manner affect recovery by the state of the penalty prescribed for such violation. *Gen. Laws 1911, ch. 279, sec. 67.*

RHODE ISLAND . If any public utility shall do or cause to be done any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing to be done by it, such public utility shall be liable to the person, firm, or corporation injured thereby, in an action of the case, to be
4243 brought within three years from the time the cause of action accrues and not after, for the amount of damage sustained in consequence of such violation; provided, that any recovery as in this section provided shall in no manner affect the recovery by the state of the penalty prescribed for such violation. *Acts 1912, ch. 795, sec. 43.*

SOUTH CAROLINA If any railroad company doing business in this state shall, in violation of any rule or regulation provided by commission, inflict wrong or injury on any person, such person shall have a right of action and recovery for such wrong or injury in the county where the same is done in any court having jurisdiction
4244 thereof and the damages to be recovered shall be the same as in action between individuals, except in cases of wilful violation of law such railroad companies shall be liable to exemplary damages; provided, that all suits under this chapter shall be brought within 12 months of the commission of the alleged wrong or injury. *Gen. Stats. 1902, sec. 2117.*

Every claim for freight overcharge or for loss of or damage to property and baggage, while in the possession of common carrier, shall be adjusted and paid within 30 days, in case of shipments wholly within this state; and within 40 days in case of shipment from without this state, after the filing of such claim with the agent of such carrier at the point of destination of such shipment, when there is no agent at such point, then such claim to be filed with the agent at the nearest station to such point of destination having an agent; provided, that no such claim be filed until after the arrival of the shipment or of some part thereof, at the point of destination, or until after the lapse of a reasonable time for the arrival thereof. In every case such common carrier shall be liable for the amount of such loss or damage, together with the interest thereon, from the
4245 date of the filing of the claim therefor until the payment thereof. Failure to adjust and pay such claim, within the periods respectively herein prescribed, shall subject each common carrier so failing to a penalty of \$50 for each and every such failure, to be recovered by any consignee or consignees aggrieved, in any court of competent jurisdiction, which action may be main-

tained in any county where the cause of action for the damage may be tried; provided, that unless such consignee or consignees recover in such action the full amount claimed, no penalty shall be recovered, but only the actual amount of the loss or damage, with interest as aforesaid; provided, further, that no common carrier shall be liable under this act for property which never came into its possession if it complies with the provisions of section 1710, vol. 1, of the code of laws of South Carolina, 1903. *Laws 1905, no. 50, sec. 2, as amended by Laws 1910, no. 387.*

Any action to recover a penalty for the loss, delay or damage to freight against any common carrier may be brought in **4246** any county in this state where the cause of action for the damage in such case may be brought, before any court of competent jurisdiction. *Laws 1909, no. 10, sec. 1.*

SOUTH DAKOTA In case any common carrier subject to the provisions of this article shall do, cause to be done, or permit to be done any act, matter or thing in this article prohibited or declared to be unlawful or shall omit to do any act, matter or thing in this article required to be done, such common carrier shall be liable to the person or persons injured thereby for the amount of damages sustained in consequence of any such violation of the provisions of this article if recovered without suit; or if recovered by suit, such common carrier shall be liable to the person or persons **4247** injured thereby for not to exceed twice the amount of damages sustained in consequence of any such violation complained of, together with costs of suit and a reasonable counsel or attorney's fee to be fixed by the court in which the same is heard on appeal or otherwise; which shall be taxed and collected as part of the costs in the case; provided, that in all cases demand in writing on said common carrier shall be made for the money damages sustained before suit is brought for recovery under this section, and no suit shall be brought until the expiration of 30 days after such demand. *Sess. Laws 1911, ch. 207, sec. 12.*

Any person or persons claiming to be damaged by any common carrier, subject to the provisions of this article, may either make complaint to commission or may bring suit in his or their own behalf for the recovery of damages for which any common carrier may be liable under the provisions of this article in any court of this state of competent jurisdiction, but such person or **4248** persons shall not have the right to pursue both of said remedies at the same time. If any action be brought for the recovery of

damages, the court before whom the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company, defendant in such suit, to attend, appear and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit. *Same, sec. 13.*

TENNESSEE

Suits may be brought by any person against any railroad company owning or operating a railroad in Tennessee, for the violation of sections 15, 16, 17, and 18 of this act before any court having jurisdiction to try the same. And it shall
4249 be the duty of the attorney general of the state to bring suit in the name of the state on the relations of commission in any court having jurisdiction thereof, to recover any penalty imposed by the provisions of this act. *Acts 1897, ch. 10, sec. 20.*

TEXAS

In case any railroad shall do, cause to be done, or permit to be done any matter, act or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violation, and in case said railroad company shall be guilty of extortion or discrimination as by this chapter defined, then, in addition to such damages, such railroad shall pay to the person, firm or
4250 corporation injured thereby a penalty of not less than \$125 nor more than \$500, to be recovered in any court of competent jurisdiction in any county into or through which such railroad may run; provided, that such road may plead and prove as a defense to the action for said penalty that such overcharge was unintentionally and innocently made through a mistake of fact; provided, that any such recovery as herein provided shall in no manner affect a recovery by the state of penalty provided for such violations. *Sayles' Civ. Stats. 1897, art. 4575.*

VIRGINIA

The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit or motion against any transportation or transmission company, for any claim or cause of action against such company, shall not be extinguished or impaired by reason of any fine or other penalty which commission may impose, or be authorized to impose, upon such company because of its breach of any public duty, or because of its failure to comply with any order or requirement of commission; but in no such proceeding by any person against

4281 such corporation, nor in any collateral proceeding, shall the reasonableness, justness or validity of any rate, charge, classification of traffic, rule, regulation or requirement, theretofore prescribed by commission, within the scope of its authority, and then in force, be questioned; provided, however, that no case based upon or involving any order of commission shall be heard, or disposed of, against the objection of either party, so long as such order is suspended in its operation by an order of the supreme court of appeals as authorized by this constitution or by any law passed in pursuance thereof. *Const., sec. 156(h).*

WASHINGTON

In case any public service company shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of this state, by this act or by any order or rule of commission, such public service company shall be liable to the persons or corporation affected thereby for all loss or damage 4282 or injury caused thereby or resulting therefrom, and in case of recovery if the court shall find that such act or omission was wilful, it may, in its discretion, fix a reasonable counsel or attorney's fee, which shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation. *Laws 1911, ch. 117, sec. 102.*

WISCONSIN

If any railroad (public utility) shall do or cause to be done or permit to be done any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, such railroad (public utility) shall be liable to the person, firm or corporation 4283 injured thereby in treble the amount of damages sustained in consequence of such violation; provided, that any recovery as in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation. *Laws 1905, ch. 362, sec. 1797-25. Laws 1907, ch. 499, sec. 1797m-93.*

All claims against any railroad for loss of, or damage to, property, from any cause, or for any service not embraced in section 1797-37m, if not acted upon within 90 days from the date 4284 of the filing of such claim with the railroad may be investigated by commission, in its discretion, and the results of such investigation shall be embodied in a special report which shall be open to public inspection and may be included in the next annual report

of commission. *Laws 1905, ch. 362, sec. 1797-32, as amended by Laws 1909, ch. 129.*

2. *Reparation.*

(a) OVERCHARGES

ALABAMA

In case of any overcharge on published or lawful rates, the person aggrieved may file with any agent of the company collecting or receiving greater compensation than the lawful
4285 rate a written demand, supported by a paid freight bill or duplicate thereof, for refund or overcharge, and a maximum period of 60 days from date of filing shall be allowed such company to pay claims filed under this section. *Acts 1907, no. 65, sec. 28.*

Any company failing to refund such overcharges within the time allowed in the preceding section shall forfeit to the party aggrieved the sum of one dollar for each day's delay in paying or
4286 satisfying said claim beyond the time allowed until such claim is paid; provided, the total forfeiture shall not exceed \$100. Cause of action for the recovery of the overcharge and the penalties provided may be embraced in the same complaint. *Same, sec. 29.*

FLORIDA

It shall be the duty of all common carriers operating within this state and they are hereby required when any person files with, or presents to, them or any station agent, of said common carrier to be filed, his claim for any freight or
4287 express lost or damaged by said common carrier, or for any overcharge made by such common carrier on any freight or express, to pay the said claim within 60 days from its filing with or presentation to said common carrier or any station agent of such common carrier. *Laws 1907, ch. 5618, sec. 1.*

Should any common carrier fail to comply with the provisions of section 1 of this act, then the said common carrier making such failure shall be liable to the claimant for the amount of his claim and 50 per cent. per annum interest on the principal sum of said claim from the date of the filing of the same with, or presentation of the same to, the common carrier or any station agent of such common carrier, and when the said claimant shall bring suit and recover judgment for his claim against said common carrier, he shall be allowed the said 50
4288 per cent. per annum, in addition to the principal sum of said claim, and the same shall be allowed in the verdict giving him judgment; provided, however, that the claimant shall not recover and have judgment for the said 50 per cent. per annum, unless he recovers judgment for a sum which fixes the princi-

pal sum of said claim at an amount greater than the amount which said common carrier had offered and tendered to the claimant in settlement of his claim before the expiration of said 60 days in which the said common carrier is required to pay such claims under the provisions of section 1 of this act. *Same, sec. 2.*

Any common carrier who fails to comply with the provisions of section 1 of this act shall, in the event that the claimant shall prevail in any action to recover on his claim, be liable
4289 for a reasonable attorney's fee, and it shall be the duty of the court to allow the claimant such reasonable attorney's fee, which shall be fixed by the court, not to exceed \$15 if the amount recovered does not exceed \$100, and not to exceed 15 per cent. on any amount recovered greater than the sum of \$100. *Same, sec. 3.*

GEORGIA

Commission shall have authority to fix penalties for neglect on the part of railroad companies to adjust over-
4290 charges and losses, or failure to decline to do so, if deemed unjust, in a reasonable time. *Code 1911, sec. 2664.*

If any railroad company shall violate the provisions of this act, either by exceeding the rates of storage prescribed, or by discriminating, the person or persons so paying such overcharge, or subjected to such discrimination, shall have the right to sue for
4291 the same in any court of this state having jurisdiction of the claim, and shall have all the remedies and be entitled to recover the same penalties and measure of damages as is prescribed in the case of overcharge of freight rates, upon making like demand as is prescribed in such cases, and after like failure to pay the same.
Acts 1891, no. 700, sec. 4.

MINNESOTA

All charges for freight, baggage or express that are collected by a common carrier over what it is entitled to receive under the lawful tariff or classification, shall be refunded by
4292 said carrier within 60 days after the payment of the same; provided, that when such overcharge is due to a difference in weight a claim may be filed as provided in section 2. *Laws 1911 ch. 360, sec. 1.*

Every claim against a common carrier doing business in this state, for an overcharge due to difference in weight, or for loss, damage or injury to property while in its possession, shall be adjusted and paid within 60 days in case of shipments wholly within the state, and within 90 days in case of shipments from without this state, or from a point in this state to a point in another state, after the filing of such claims with the agent of said carrier at the point of the origin, or of the destination of such

shipment, or with the claims department of such carrier. No such claims shall be filed until after the arrival of a shipment, or
4283 of some part thereof at the point of destination, or until the lapse of a reasonable time for the arrival thereof. For the purpose of this act, a claim, when filed shall consist of (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant and (d) original invoice or certified copy when necessary. True copies of any of said documents may be used, and in case of absence, an explanation must be attached. The carrier shall acknowledge the filing of a claim, or any letter, papers or documents purporting to be such, within ten days after receipt, and if the claim so filed does not comply with the above requirements the carrier shall so inform the claimant and advise him of what may be required to complete the claim. *Same, sec. 2.*

In every case such carrier shall be liable for the amount of such overcharge and for such loss, damage or injury to prop-
4284 erty, together with interest thereon from the date of the filing of the claim therefor until the payment thereof. *Same, sec. 3.*

Failure to adjust and tender or pay such overcharge or claim within the periods herein prescribed shall subject such common carrier so failing, to a penalty of \$25 for each and every failure to be recovered by the claimant in the action or proceeding brought to collect such claim or overcharge, in any court in the state. Unless such claimant recovers in such action the full amount claimed by him, no penalty shall be recovered, but only the actual amount of the loss, injury or damage to property or
4285 amount of the overcharge, with interest. And if, in such action, a special issue of fraud is raised and such claim is found to be fraudulent, the claimant shall pay to the carrier the penalty of \$25, to be recovered along with the costs. In an action brought under the provisions of this law, if the carrier can show that it made a tender of the amount claimed, with interest, and a penalty of \$5, within five days after a demand that is made at any time after the expiration of the time specified in sections 1 and 2, then it shall only be subject to the penalty of \$5 to be recovered along with the costs. *Same, sec. 4.*

The remedy herein provided is cumulative, and shall not
4286 deprive the claimant of any other right of action provided by statute or by the common law. *Same, sec. 5.*

MISSISSIPPI

If any express company through any agent or employe shall demand and receive of a consignee any charge

or part of a charge which has been prepaid, or a greater sum than the company has agreed to perform the services for, or more than reasonable compensation for any service rendered, 4287 the consignee or person paying the overcharge shall be entitled to recover of the company \$25, in addition to damages for any injury; and any package which the company shall receive and transport marked "paid" or "pd," or otherwise so marked as to indicate prepayment, shall not be charged for at the point of delivery, under the same penalty. *Laws 1908, ch. 77, sec. 1.*

NORTH DAKOTA It shall be the duty of commission to adjust all claims for overcharges and losses in freight, freight charges or fares, when it has jurisdiction over the carrier where the loss or 4288 overcharges took place, whenever it is requested to do so by a resident or shipper of this state. It shall have authority to fix reasonable penalties for neglect or failure on the part of the carrier to adjust such overcharges or losses within a reasonable time. *Laws 1911, ch. 240, sec. 1.*

(b) UNREASONABLE RATES.

ARIZONA, CALIFORNIA

When complaint has been made to commission concerning any rate, fare, toll, rental or charge for any product or commodity furnished or service performed by any public service corporation,¹ and commission has found, after investigation, that the public service corporation¹ has charged an excessive or discriminatory amount for such product, commodity or service, 4289 commission may order that the public service corporation¹ make due reparation to the complainant therefor, with interest at the legal rate² from the date of collection; provided, no discrimination will result from such reparation. *Ariz.—Sess. Laws 1912, ch. 90, sec. 71(a); Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 71(a).*

If the public service corporation¹ does not comply with the order for the payment of reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover the same. All complaints concerning excessive or discriminatory charges shall be filed with commission within two years from the time the cause of action accrues, and 4290 the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of commission. The remedy in this section provided shall be cumulative and in

¹ "Public utility," in California.

² "With interest at the legal rate" reads "with interest" in California.

addition to any other remedy or remedies in this act provided, in case of failure of a public service corporation¹ to obey an order or decision of commission. *Ariz.—Sess. Laws 1912, ch. 90, sec. 71(b); Cal.—Stats. 1911, 1st ex. sess., ch. 14, sec. 71(b).*

FLORIDA

If any railroad, railroad company or other common carrier doing business in this state, shall, in violation or disregard of any rule, rate or regulation provided by commission inflict any wrong or injury on any person, it shall be the duty of commission if requested by such injured person to institute proceedings to compel restitution and to enforce the penalty incurred in any court having jurisdiction, and such action by commission shall preclude settlement by the party or parties injured without the consent of commission. And if any railroad company or common carrier shall discriminate, by way of rebate or otherwise, directly or indirectly, in favor of any consignor or consignee of freights within this state, or allowing him a reduction of the rate fixed by commission as reasonable and just, any other consignor or consignee of freights within this state shall have a
1971 right of action against the said railroad company or common carrier, and the amount of his damages shall be fixed by a jury, unless a jury shall be waived, and the measure of damages shall be such sum or sums of money as will fairly compensate the injury done to said last mentioned consignor or consignee. But in all such cases demand in writing on said railroad, railroad company or common carrier shall be made for the money damages sustained before suit for recovery under this section, and all suits under this act shall be brought within 12 months after the commission of the alleged wrong or injury, except in cases where railroad commission has heretofore been or shall hereafter be, by the refusal of such railroad or common carrier to observe the rates, rules, schedules or regulations by commission compelled to resort to suits to enforce such rates, rules, schedules or regulations, and in such cases, suits for such loss, damage or penalty may be brought within 12 months after the termination of such suits in favor of commission. *Gen. Stats. 1906, sec. 2910, as amended by Laws 1907, ch. 5624.*

Any person, firm or corporation from whom any moneys shall have been exacted by any such company or common carrier in excess of the amounts properly chargeable under the provisions of this chapter, and any person, firm or corporation who shall have suffered any pecuniary injury by the violation by any such

¹ "Public utility," in California.

company or common carrier of any provisions of this chapter, shall have the right, by written demand, to require commission to enforce recovery of his damages, or may, upon failure of commission to institute suit therefor within 90 days after such written
4272 demand, institute suit in his own name against any such company or common carrier in any court of competent jurisdiction in the county in which the cause of action arose, or in any county in the state through or in which such company or common carrier runs or does business; and any such person, firm or corporation, upon establishing his right of recovery, shall be entitled to recover the total amount of such overcharges or other pecuniary injury, with interest thereon, together with such additional amount as the jury may find necessary to reasonably compensate him for all expenses, including the value of his own time and services, and all reasonable cost and attorney's fees incurred in the recovery of such damages, and such right of action shall exist in the legal representatives or assignee of any such person, corporation or firm. *Same, sec. 2911.*

In the event of an appeal after the judgment for such recovery the appellate court shall, upon an affirmation of such judgment, allow and adjudge, or require to be allowed and adjudged, the payment of such additional amount as may be necessary to reasonably compensate the plaintiff for all such additional expenses as may be incident to the appeal and delay. And any such action or any other action instituted by commission shall be
4273 in the name, except as herein otherwise provided, of the "Railroad Commissioners of the State of Florida," without using their individual names, and the recovery had thereon shall be held by commission and applied to the use of the party or parties so injured; and commission may unite in one action the claims of different persons by whom they may be requested to institute such suits where such claims are of the same character and against the same defendant. *Same, sec. 2912.*

In all cases under the provisions of this chapter the rules of evidence shall be the same as in civil actions, except as hereinbefore otherwise provided. The remedies hereby given the injured person shall be regarded as cumulative to the remedies now given by law against railroads, railroad corporations and
4274 common carriers, and this act shall not be construed as repealing any statute giving such remedies; provided, that making recompense to any person or corporation, for wrongs or injuries done them by any railroad, railroad company or other common

carrier shall not prevent commission from enforcing penalties for any violations of rules, regulations or rates. *Same, sec. 2913.*

KANSAS

In case any railroad company shall charge and receive any rate for the transportation of freight in excess of the rate authorized by commission, then said railroad company shall repay the amount so charged or received in excess of the rate fixed by commission on demand therefor; and in case of failure to repay any such amount within 30 days after such demand, the
4275 amount thereof may be recovered, together with reasonable attorney's fees, in an action brought for that purpose in any court of competent jurisdiction; provided, that if such railroad companies shall, within 30 days after such decision or determination by commission, bring suit to test the reasonableness of such rates, no suit shall be brought for said excess until such rates have been adjudicated. *Gen. Stats. 1909, sec. 7196.*

MICHIGAN

Within six months after the delivery of any shipment of freight at destination any person aggrieved may complain to commission that the charge exacted for the transportation of such freight between points in Michigan is irregular or exorbitant, and thereupon commission may investigate such complaint, and hear the same and decide upon the merits thereof, in the manner provided by section 22 of this act. If, upon such hearing, commission shall decide that the rate or charge exacted is irregular or exorbitant it shall find what, in its judgment, would have been a reasonable rate or charge for the service complained of. If the rate or charge so found shall be less than the charge exacted the carrier shall have the right to refund to the
4276 person paying such charge the amount so found to be excessive. In case of the refusal of the carrier to make such refund, the party aggrieved thereby may maintain an action in the courts of this state to recover the amount of such excessive charge as found by commission, and in the trial thereof the findings of commission shall be prima facie evidence of the truth of the facts found by it, and no carrier shall be permitted to avail itself of the defense of such action that the shipment involved was in fact made on the published tariff rate in force at the time such shipment was made, but no carrier making a refund upon the order of commission or pursuant to a judgment of court as herein provided, shall be liable for any penalty or forfeiture, or subject to any prosecution under the laws of this state on account of making such refund. *Pub. Acts 1911, no. 139, sec. 10(g).*

MISSISSIPPI The party injured may recover of the person or corporation guilty of extortion twice the amount of damages
4277 sustained by the overcharge or discrimination, as the case may be. *Code 1906, sec. 4840.*

MONTANA Any sum or amount of money paid to any railroad by any person or shipper in excess of the rates, tolls, or charges fixed and established by commission for such service, may be recovered from such railroad by the person or shipper in any action instituted and maintained in the district court of the county in which such payment was made, provided such action shall be brought within 12 months from the date of such payment. No contract or agreement, written or otherwise, between such person or shipper and the said railroad, shall be admissible in evidence for the purpose of showing a waiver of the
4278 right given by this section. No voluntary payment by any person or shipper of any excess or overcharge to any railroad shall be, or held to be a waiver on the part of such person or shipper of the right to sue and recover for such excess or overcharge, as provided for in this section. If, upon the trial of such action, it shall satisfactorily appear to the court or jury that such overcharge was wilfully made, the person or shipper bringing the said action shall be awarded damages in treble the amount of such excess or overcharge, together with the costs and expenses of such action including a reasonable attorney's fee, to be taxed and collected as other costs in the action. *Rev. Codes 1907, sec. 4389.*

VERMONT A telegraph or express company shall be restricted in its charges to the tariff of rates so exhibited; and when a greater sum than its printed rates is paid, the person paying
4279 the same may recover the amount so paid above such rates, with 12 per cent. interest thereon from the time of payment, with full costs, in an action of assumpsit declaring for money had and received or goods sold and delivered, as the case may be. *Pub. Stats. 1906, sec. 4866.*

WASHINGTON When complaint has been made to commission concerning the reasonableness of any rate, fare, toll, rental or charge for any service performed by any public service company, and the same has been investigated by commission, and commis-
4280 sion shall determine that the public service company has charged an excessive or exorbitant amount for such service, commission may order that the public service company pay to the complainant the amount of the overcharge so found, with interest from the date of collection. *Laws 1911, ch. 117, sec. 91.*

If the public service company does not comply with the order for the payment of the overcharge within the time limited in such order, suit may be instituted in any court of competent jurisdiction to recover the same, and in such suit the findings and order of commission shall be prima facie evidence of the facts
4281 therein stated. If the complainant shall prevail in such action, he shall be allowed a reasonable attorney's fee, to be fixed and collected as part of the costs of the suit. All complaints concerning overcharges shall be filed with commission within two years from the time the cause of action accrues, and the petition for the enforcement of the order shall be filed in the court within one year from the date of the order of commission. *Same.*

WISCONSIN

Within one year after the delivery of any shipment of property at destination, any person aggrieved may complain to commission that the charge exacted for the transportation of such property between points in Wisconsin, or for any service in connection therewith, or that the charge exacted for the storage of such property, or that any carservice or demurrage charge exacted, is erroneous, illegal, unusual or exorbitant, and thereupon commission shall have power to investigate such complaint, and to hear the same, and to decide upon the merits thereof, in the manner provided by section 12, chapter 362, laws of 1905. If upon such hearing commission shall decide that the rate or charge exacted is erroneous, illegal, unusual or exorbitant, it shall find, what in its judgment, would have been a reasonable rate or charge for the service complained of. If the rate or charge
4282 so found shall be less than the charge exacted, the carrier shall have the right to refund to the person paying such charge, the amount so found to be excessive. In case of the refusal of the carrier to make such refund, the party aggrieved thereby may maintain an action in the courts of this state to recover the amount of such excessive charge as found by commission, and in the trial thereof the findings of commission shall be prima facie evidence of the truth of the facts found by it, and no carrier shall be permitted to avail itself of the defense in such action that the shipment involved was in fact made on the published tariff rate in force at the time such shipment was made, but no carrier making a refund upon the order of commission or pursuant to a judgment of court, as herein provided, shall be liable for any penalty or forfeiture, or subject to any prosecution under the laws of this state, on account of making such refund. *Laws 1907, ch. 582,*

sec. 1797-37m, as amended by Laws 1909, ch. 136, and Laws 1911, ch. 28.

3. *Election of Mode of Procedure.*

UNITED STATES Any person or persons claiming to be damaged by any common carrier may either make complaint to commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they
4293 will adopt. In any such action brought for the recovery of damages, the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding. *Act to Regulate Commerce, sec. 9.*

IOWA Any person claiming to be damaged by any common carrier subject to the provisions of this chapter may either make complaint to commission, or may bring action in his own behalf for the recovery of damages for which any such common carrier may be liable under the provisions hereof; but he shall not have the right to pursue both of said remedies at the same time. In any such action the court before whom the same may be pending may compel any director, officer, receiver, trustee or agent of the corporation or company defendant in
4294 such suit to attend as a witness and to testify, and may compel the production of the books and papers of such corporation or company; and the claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse him from testifying or producing said books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for and on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise; provided, that no person so testi-

lying shall be exempted from prosecution and punishment for perjury committed in so testifying. *Code 1897, sec. 2131.*

NORTH DAKOTA Any person or persons claiming to be damaged by any railroad, railroad corporation or common carrier, may either make complaint to commission who may bring suit in their own name when they deem it advisable, or such person or persons may bring suit in his or their own behalf for the recovery of damages for which any such railroad, railroad corporation or common carrier may be liable, under the provisions of this article, in any court of this state of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies at the same time. In any such action brought for the recovery of damages, the court before whom the same shall be pending may compel any director, officer, receiver, trustee or agent of the defendant in such suit to attend, appear and testify in such case and may compel the production of the books and papers of such railroad, railroad corporation or common carrier party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person or witness from testifying or producing said books and papers; but such evidence or testimony shall not be used against such person in any way, on the trial of any criminal proceedings. *Rev. Codes 1905, sec. 4350.*

E. JUDICIAL REVIEW OF ORDERS OF COMMISSION.

ALABAMA Any person, company, or corporation owning or operating, as a common carrier, any railroad, in whole or in part, in this state, may contest the validity or fairness and reasonableness of, and the right of commission to enforce, any rate or rates of compensation established by statute for the transportation, originating and terminating within the state, by any railroad in this state of any article or commodity. *Code 1907, sec. 5579.*

Such contest may be instituted by filing a petition or complaint in a state court, in the circuit or chancery court of Montgomery county, Alabama, or other court in said county having concurrent jurisdiction with said circuit or chancery court, making commission defendant therein, and alleging wherein the rate or rates complained of are invalid or unfair and unreasonable; and in said petition the validity, fairness or reasonableness of the respec-

tive rates on any number of articles or classes of articles may be contested. *Same, sec. 5580.*

Commission may, before the expiration of said 30 days from the rendition of the judgment by the lower court, sue out an appeal to the supreme court from said judgment or decree, and after the suing out of said appeal, the appellee railroad company
4288 shall give bond provided for in section 5585 of his code, then immediately upon the giving of said bond, the rate or rates complained of shall be suspended and shall remain suspended until the final decision of said cause by the supreme court. *Same, sec. 5583.*

Any transportation company or companies, corporation or individual owning or operating as a common carrier any railroad in whole or in part in this state, desiring to contest the validity or fairness or reasonableness of any rate or rates, or of any order of commission fixing or relating to any rate or rates of compensa-
4289 tion for the transportation, originating and terminating within the state, of articles or passengers, or any other rates or charges or any order relating thereto, or any order fixing any regulations, practices, or services or acts to be observed or performed by such companies, corporations or persons may institute an action to contest such rate or rates or such order or orders. *Same, sec. 5684.*

Such action, if instituted in a state court, shall be commenced by filing a complaint or bill or petition in the circuit or chancery court of Montgomery county, or other court in said county having concurrent jurisdiction with said circuit or chancery court, making commission defendant therein, and alleging wherein the rate or rates or order or orders complained of are invalid or unfair, or unreasonable, and in said petition, bill, or complaint the validity, fairness, or reasonableness of the respective rates of any number of articles or classes of articles, or any number of rates for the transportation of passengers, or any number of orders of commission fixing any such regulations, practices, or services, may be
4290 contested; but an order fixing rates for such transportation of freight or articles shall not be contested in the same proceeding; nor shall an order fixing rates for the transportation of passengers be contested in a proceeding to contest either of the aforesaid orders. A copy of said complaint, bill or petition shall be served on commission or any member thereof, with the summons, and the defendant shall plead, answer or demur to the complaint, bill or petition within 30 days after service thereof. Said cause shall

have precedence over any other cause pending in said court, except criminal causes, and shall be tried under the same rules and regulations as are or may be prescribed by law for the trial of other civil or chancery suits in said court, except as may otherwise be provided in this code, and except that the rates or orders complained of shall be prima facie presumed to be valid, fair and reasonable. *Same, sec. 5685.*

If the court shall decide that the rates or orders complained of, or any of them, are invalid or unfair or unreasonable, it shall render a judgment or decree annulling or suspending the same. The rate or rates, or order or orders complained of shall remain in force and be observed as the established rates or orders for the
4291 period of 30 days after the rendition of said judgment or decree, which period shall be allowed for an appeal from said judgment; but if before the expiration of said 30 days an appeal to the supreme court from said judgment or decree shall be sued out by either party, said rates or orders shall remain in force and be observed until the same shall be suspended in the manner provided in sections 5689 and 5690. *Same, sec. 5686.*

Either party may appeal to the supreme court from the judgment or decree of the lower court, the appeal to be taken within
4292 30 days from the rendition of said judgment or decree, under same rules and regulations as are or may be provided by law for appeals from said court except as herein provided. *Same, sec. 5687.*

In any suit, at law or in equity, civil or criminal, hereinafter instituted or now pending, and in any suit pending on appeal from an order of commission, in any court of record of law or equity in this state, wherein is drawn or may be drawn in question the validity, fairness, or reasonableness of any maximum rates or charges established by statute or by commission, or rates made the maximum rates by statute, or wherein is or may be drawn in question the validity of the statute or order establishing such rates, for the transportation of passengers, freight or property between points within this state, in which suit a common carrier or railroad corporation, or person, company, corporation, trustee, receiver or lessee operating a railroad in this state, or any director, officer, agent, or employe of such carrier, railroad corporation, person, company, corporation, trustee, receiver, or lessee is a party, when a petition or motion is filed by the party, or any of the parties opposed in interest to said carrier, railroad corporation, person, company, corporation, trustee, receiver, or lessee, or

4293 any director, officer, agent or employe of such carrier, railroad corporation, person, company, corporation, trustee, receiver, or lessee, stating that in the belief of the petitioner an examination or inspection of the books, papers, documents, records, accounts, memoranda, contracts, or either of them, of said carrier, railroad corporation, person, company, corporation, trustee, receiver, or lessee operating said railroad, is necessary for the proper preparation and trial of said cause and determination of the issue or issues therein verified by the affidavit of said party filing the same, or his attorney of record, the court or any judge thereof shall have power and authority, and it shall be the duty of said court or judge, to grant an order requiring said carrier or railroad corporation or person, company, corporation, trustee, receiver, or lessee operating the road to submit all of its books, papers, documents, records, accounts, memoranda, and contracts to the inspection and examination of the party filing said petition, or his attorney of record, and of any expert accountant or accountants specifically named in said order and any assistant who may be selected by the person or persons so named. *Acts 1907, sp. sess., no. 13, sec. 1.*

Upon the granting of said order the person or persons named in said order and his or their assistants, shall have power and authority to inspect and examine all of the books, papers, documents, accounts, memoranda, records and contracts of said carrier, railroad corporation, or person, company, corporation, trustee, receiver, or lessee, wherever the same may be kept, whether within or without this state and to make analysis of and take cop-
4294 ies from the same, and it shall be the duty of such carrier, railroad corporation, or person, company, corporation, trustee, receiver, or lessee, and of every officer, agent or employe thereof, who has the custody of said books, papers, documents, accounts, memoranda, records and contracts or any of them, to submit the same to the inspection and examination of said person or persons, and his or their assistants, upon presentation of a copy of said order, duly certified by the judge making the order, or by the clerk of the court when made by a court. *Same, sec. 2.*

If said carrier, railroad corporation, or person, firm, corporation, trustee, receiver, or lessee operating said railroad, or the officer, agent or employe having the custody of the same, shall fail or refuse to submit its books, papers, documents, accounts, memoranda, records and contracts, or any of them, to the inspection and examination of the party filing said petition, or his attorney of record, or the examiner or persons specifically named

4295 in said order, or his assistants or any of them, as required by the provisions of this act, or shall submit to their inspection and examination any false books, papers, documents, accounts, records, memoranda, or contracts, the court may, if the party applying for said order be a plaintiff in said suit, render a judgment by default, or direct a judgment by default to be entered against the defendant, and if the party applying for said order be the defendant in said suit, may direct a nonsuit to be entered. *Same, sec. 3.*

No court other than those of Montgomery county shall 4296 have or take jurisdiction in any suit or proceeding brought or instituted against commission. *Acts 1907, sp. sess., no. 17, sec. 15.*

ARIZONA

Within 30 days after the application for a rehearing is denied, or, if the application is granted, then within 30 days after the rendition of the decision on rehearing, any public service corporation, or other party in interest, or the attorney general on behalf of the state, being dissatisfied with any order of commission fixing any valuation, rate, joint rate, toll, fare, charge, or findings, rule or regulation, classification or schedule, or any order fixing any regulations, practices, demand 4297 or requirement, act or service may commence an action in the superior court of the county in which commission has its domicile against commission as defendant to vacate and set aside any such order on the ground that the valuation, rate, joint rate, toll, fare, charge or finding, rule or regulation, classification or schedule, practice, demand, requirement, act or service fixed in such order is unlawful, or that any regulation, practice, act or service fixed in such order is unreasonable, in which action the complaint shall be served with the summons. *Sess. Laws 1912, ch. 90, sec. 67(a).*

The answer of commission to the complaint shall be served 4298 and filed within 20 days after service of the complaint, whereupon said action shall be at issue and stand ready for trial upon ten days' notice to either party. *Same, sec. 67(b).*

Such action shall be tried and determined as other civil 4299 actions, except as herein provided. *Same, sec. 67(c).*

The right to commence any such action, proceeding or suit, or to take or exercise any such appeal or right of recourse to the 4300 courts, shall terminate absolutely at the end of said thirty days, after the application for a rehearing before commission is denied, or, if the application is granted, then at the end of said

30 days after the rendition of the decision on rehearing. *Same, sec. 67(d).*

4301 If commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment shall be rendered affirming, modifying, or setting aside such original order, and said judgment shall be deemed final unless notice of appeal shall be given on the date thereof in open court. *Same, sec. 67(e).*

Either party to said action, or the attorney general on behalf of the state, within 30 days after the rendition of the order or judgment of the superior court, may appeal to the supreme court. 4302 Where an appeal is taken the cause shall, on the return of the papers to the supreme court, be immediately placed on the calendar of the then pending term and shall be assigned and brought to a hearing in the same manner as other causes on the calendar. *Same, sec. 67(f).*

In all trials, actions and proceedings arising under the provisions of this act or growing out of the exercise of the authority and powers granted herein to commission, the burden of proof shall be upon the party adverse to commission or seeking to vacate or set aside any determination, requirement, direction or order of commission to show by clear and satisfactory evidence 4303 that the determination, requirement, direction or order of commission complained of is unreasonable or unlawful as the case may be. *Same, sec. 67(g).*

Upon final hearing the court shall enter judgment affirming, modifying, or setting aside the order or decision of commission. The provisions of the general laws of this state relating to trials 4304 of causes, so far as applicable, and not in conflict with the provisions of this act, shall apply to proceedings instituted in the courts of this state under the provisions of this section. *Same, sec. 67(h).*

CALIFORNIA Within 30 days after the application for a rehearing is denied, or, if the application is granted, then within 30 days after the rendition of the decision on rehearing, the applicant may apply to the supreme court of this state for a writ of certiorari or review (hereinafter referred to as a writ of review) for the purpose of having the lawfulness of the original order or de-

cision or the order or decision on rehearing inquired into and determined. Such writ shall be made returnable not later than 30 days after the date of the issuance thereof, and shall direct commission to certify its record in the case to the court. On the return day, the cause shall be heard by the supreme court, unless for a good reason shown the same be continued. No new or additional evidence may be introduced in the supreme court, but the cause shall be heard on the record of commission as certified to by it. The review shall not be extended further than to determine whether commission has regularly pursued its authority, including a determination of whether the order for decision under review violates any right of the petitioner under the constitution of the United States or of the state. The findings and conclusions of commission on questions of fact shall be final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of commission on reasonableness and discrimination. The commission and each party to the action or proceeding before commission shall have the right to appear in the review proceeding. Upon the hearing the supreme court shall enter judgment either affirming or setting aside the order or decision of commission. The provisions of the code of civil procedure of this state relating to writs of review shall, so far as applicable and not in conflict with the provisions of this act, apply to proceedings instituted in the supreme court under the provisions of this section. *Stats. 1911, 1st ex. sess., ch. 14, sec. 67.*

See also pars. 621, 3718.

COLORADO

After a decision, order or requirement has been made by commission, as provided in section 15 of this act, any carrier or carriers affected thereby may, at any time within the time limit of such decision, order or requirement, appeal therefrom to the district court of the city and county of Denver or of the district in which the violation of this act is alleged to have occurred, which court may either sustain the decision, order or requirement of commission, or may set aside, suspend or annul all or any part thereof. *Laws 1910, sp. sess., ch. 5, sec. 17.*

Whenever an appeal shall be prayed from a decision, order or requirement of commission, as in this section provided for, commission shall within ten days after the date of such prayer for appeal certify to the district court to which such appeal shall be prayed a full, true and correct transcript of the proceedings before commission, together with a copy of the decision,

order or requirement from, and such decision, order or requirement shall be accepted by such district court as prima facie evidence of the facts therein set forth. *Same.*

CONNECTICUT Any party to any proceeding relating to street railways brought before commission upon either original application or by appeal, aggrieved by the decision or order of commission thereon, may appeal therefrom to the superior court, in
4308 the same manner as is provided in the case of appeals taken under the provisions of section 3747, and with like effect; and said court may, upon application of such street railway company, with due notice to adverse parties, amend or change any order passed by it on appeal as aforesaid. *Gen. Stats. 1902, sec. 3834.*

Any company, town, city, borough, corporation, or person aggrieved by any order, authorization, or decision of commission in any matter to which he or it was or ought to have been made a party may appeal therefrom to the superior court within 15 days after the filing of such order, authorization or decision; but
4309 commission may extend the time for the filing of such appeal for an additional period of not more than 15 days. The party so appealing shall give bond to the state, with sufficient surety, for the benefit of the adverse party, in such sum as commission shall fix, to pay all costs in case he or it fails to sustain such appeal. *Pub. Acts 1911, ch. 128, sec. 29.*

Said appeal shall be brought in the county in which is located the matter, or any portion thereof, concerning which such order, authorization, or decision was made, or, if such order, authorization, or decision did not pertain to any such localized matter, then such appeal shall be brought in Hartford County.
4310 No such appeal shall abate by reason of any error of venue, but such appeal may be transferred at any time, on motion of any party or by order of the court, to the proper venue. It shall be the duty of the attorney general to appeal for and represent commission in all proceedings had upon any such appeal. *Same, sec. 30.*

Each appeal shall be brought by a complaint in writing, stating fully the reasons therefor, with a proper citation, signed by competent authority, to all parties to said proceedings having an interest adverse to the appellant, and shall be served upon such parties at least 12 days before the return day. Such appeals shall be brought to the next return day of said court after

the filing of said appeal, if there be sufficient time for giving the notice provided for by this act, otherwise to the return day next
4811 but one after such filing. Said court shall hear such appeal and reëxamine the question of the legality of the order, authorization, or decision appealed from, and the propriety and expediency of such order, authorization, or decision, in so far as said court may properly have cognizance of such subject, either by itself or a committee, and shall proceed therein in the same manner as upon complaints for equitable relief; and the decision of such court, subject, however, to review on appeal to the supreme court of errors on questions of law, shall be final and conclusive upon the parties. *Same, sec. 31.*

When the persons who should otherwise be made parties to such appeal are so numerous that it would be impracticable or unreasonably expensive to make them all parties by personal service, the court to which such appeal is taken, or, if said court
4812 is not in session, any judge of the superior court, may order notice of such appeal to be given by some method other than by personal service, to such of the parties as said court or judge shall deem just and equitable, and notice so given shall operate to bind the interests of such parties on such appeal as fully as if personal service had been made upon said parties. *Same, sec. 32.*

FLORIDA Appeals by either party shall be from judgments, orders and decrees of inferior courts in all suits and cases brought under the provisions of this act to the same extent that appeals lie in similar suits and cases brought under any other law in this state, and not otherwise; but all such appeals shall be taken to the appellate court, returnable within 30 days, and shall be advanced to the head of the docket and given precedence over
4813 all other appeals except habeas corpus proceedings, and shall be heard and determined as soon as practicable after the filing of the appeal in the said court, and appellate courts are hereby authorized and required to establish such reasonable special rules and regulations for the speedy trial and disposition of such appeals as may be necessary or advisable to secure the prompt hearing and disposition of such appeals. *Gen. Stats. 1906, sec. 2923.*

GEORGIA No court of this state, other than those of
4814 Fulton County, shall have or take jurisdiction in any suit or proceeding brought or instituted against commission or any of its orders or rules. *Code 1911, sec. 2625.*

In all cases under the provisions of this article, the rules

4315 of evidence shall be the same as in civil actions, except as hereinbefore otherwise provided. *Same, sec. 2641.*

ILLINOIS

A provision identical with par. 4315. *Revisal 4316 1909, ch. 114, sec. 132.*

Any party to any proceedings before commission, or any party affected by any order thereof, may appeal to the circuit court of Sangamon County at any time within 20 days after service of a copy of such order on the parties of record in said proceedings. The party taking such an appeal shall file with the secretary of commission at the office of commission in Springfield, Illinois, written notice of said appeal. Commission, upon the filing of such notice of appeal, shall, within five days thereafter, file with the clerk of said circuit court of Sangamon County, Illinois, a certified copy of the pleadings and order appealed from. The party serving such notice of appeal shall, within five days after the service of said notice upon commission, file a copy of said notice with proof of service with the clerk of said court to which such appeal is taken, and thereupon said circuit court shall have jurisdiction over said appeal and the same shall be entered upon the records of said circuit court and shall be tried therein according to the rules relating to the trials of chancery suits so far as the same are applicable. Commission shall be designated as complainant in said circuit court, and the common carrier or warehouseman as defendant; no further pleadings than those already filed before commission shall be necessary. Such 4317 order made by commission shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal, shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law; otherwise, it shall be vacated and set aside. If an appeal is not taken, such order shall become final and it shall thereupon be the duty of the carrier or warehouseman affected to comply therewith. All orders from which no appeal is taken, as provided by law, shall be deemed to be in full force and effect for all purposes from the time when the right to appeal from such order expires. When no appeal is taken from an order, as herein provided, parties affected by such order shall be deemed to have waived the right to have the merits of said controversy reviewed by a court and there shall be no trial of the merits of or reexamination of the facts of any controversy in which such order was made by any court to which application

may be made for a writ to enforce the same. Appeals from all final orders and judgments entered in review by the said circuit court of the action of commission, shall go directly to the supreme court, and shall be governed by the rules applying to chancery cases appealed to said supreme court. *Same, sec. 201.*

See also par. 3679.

INDIANA

Any carrier, or other party, dissatisfied with any final order made by commission, may, within 30 days after the entry thereof, begin an action against commission in any court of competent jurisdiction in any county in this state into or through which any such carrier operates, to suspend or set aside any such order. Any party to any final judgment of any court in this state, in any proceeding by or against commission, may prosecute an appeal therefrom to the supreme court of this state in the manner now provided by law in civil cases, excepting as otherwise provided in this act. In all actions in the courts of
4318 this state authorized by this act the rules of evidence shall be the same as in the trial of civil cases, as now provided by law, excepting as otherwise provided in this act; and, provided also, that when, in any such cause, the cost of transportation is involved, the carrier, or carriers, parties to such proceedings shall have the burden of establishing the cost of such transportation, over its line, as shall be involved in such proceeding. All such courts as shall obtain jurisdiction of any such action in which commission is a party shall speedily hear and determine the same to the end that the public interests shall not suffer. *Acts 1907, ch. 241, sec. 6.*

IOWA

The time for the taking effect of any rule, order, or regulation affecting public rights, made by commission as provided herein, may, in its discretion, be extended, and said extension of time may be granted for the purpose of testing the legality thereof, and (provided) that said application is made in good faith and not for the purpose of delay. When any railroad shall fail upon appeal to secure a vacation of the order from
4319 which it has appealed, it may apply to the court in which said appeal is finally adjudicated for an order remitting the penalty which has accrued during the pendency of the appeal and upon a satisfactory showing that the order appealed from was unreasonable or unjust, or that the power of commission to make the same was doubtful and that said appeal has been prosecuted in good faith and not for the purposes of delay, such court may remit

the penalty that has accrued during the pendency of the appeal.

Laws 1909, ch. 128, sec. 3.

See also pars. 2362, 3944.

KANSAS

Commission shall not make any regulation or order against any railroad company or enter into any investigation affecting any railroad company without giving such railroad company reasonable notice thereof and an opportunity to appear and be heard in respect to the same, except as is provided by section 10, chapter 286, Session Laws of 1901, as amended, and if any railroad company shall be dissatisfied with any regulation or order adopted by commission such dissatisfied railroad company shall have the right, within 30 days after the making or entering thereof, to bring an action against commission as defendants, in any court of competent jurisdiction, to have such regulation or order vacated, and shall set forth in the petition the particular regulation or order complained of and the particular cause or causes of objection to any or all of them, and a summons shall be served upon the secretary of commission as in other cases. Issues shall be formed and the controversy tried and determined as in other civil cases of an equitable nature; and the court may set aside, vacate or annul one or more or any part of any of the regulations or orders adopted by commission which shall be found to be unreasonable, unjust, oppressive or unlawful, without disturbing others; provided, that no injunction, interlocutory order or decree suspending or restraining the enforcement of an order of commission shall be granted except on hearing, after not less than five days' notice to commission. Either party to said cause, if dissatisfied with the judgment or decree of said court, may institute proceedings in error in the supreme court as in other civil cases, and said court shall examine the record, including the evidence, and render such judgment as shall be just and proper in the premises. In all litigation under this section, commission shall be entitled to the services of the attorney general in its behalf, as well as those of the attorney for commission and the costs incurred by them shall be paid by the state. All actions brought under this section shall be advanced, upon application of either party thereto, and in the hearing thereof shall have precedence over all other causes except criminal cases to the end that the same may be speedily heard and finally determined. The institution of any such action by any railroad company shall in no manner interfere with or prejudice the rights of commission or any other party in interest from availing itself of the remedies

4890

provided in section 38 of this act; but whenever action shall be brought by any railroad company under the provisions of this section within the said period of 30 days, no penalties or forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the regulations or orders sought to be vacated or modified in such action until the validity of such regulation or order shall have been finally determined in such action, or shall have been finally determined by the supreme court in any proceeding to which said railroad company is a party. Whenever a proceeding brought in the supreme court under section 38 of this act by the attorney for commission or the attorney general, upon the direction of commission, against any railroad company to compel the compliance with any order of commission shall be pending at the same time with an action brought in any district court of the state by such railroad company to vacate such order, the supreme court, upon such fact being made to appear, may stay all proceedings in said district court in said cause, so far as relates to the subject-matter involved in such proceeding in the supreme court, until the final determination thereof by the supreme court, and if said proceeding in the supreme court result in a final decision upon the merits, determining the question of the validity of such order, said district court, upon the facts being made to appear, shall render judgment in accordance with such decision of the supreme court. *Gen. Stats. 1909, sec. 7228.*

Any common carrier or public utility or other party in interest, being dissatisfied with any order of commission fixing any valuation, toll, rate, joint rate, fare, charges or findings, rules or regulations, classifications, schedules, or any order or ruling fixing any regulations, practices or service, or order or ruling relating to the issuance of stocks, bonds or other securities hereinafter provided may, within 30 days from the making of such order, commence an action in a court of competent jurisdiction, against commission as defendant, to vacate and set aside any such order, finding or decision of commission on the ground that the valuation, toll, rate, joint rate, fare, charges, orders, rules, regulations, findings, classifications or schedules in such decision, are unlawful or unreasonable, or that any such regulation, valuation, practice or service fixed in such order or decision is unreasonable. All
4821 actions brought under this section shall have precedence in any court and, on motion, shall be advanced over any civil cause of a different nature pending in such court, and such action shall be tried and determined as other civil actions. Appeals from any

decision of the district court shall be taken from the district court to the supreme court of the state, in the same manner as provided by law in other civil actions. During the pendency of any action under the provisions of this act, all orders made by commission prescribing rates, joint rates, tolls, fares, charges, rules, regulations, classifications or schedules or findings shall, unless temporarily stayed or enjoined, remain in full force and effect until final judgment is rendered therein. During the pendency of such appeal the judgment of the lower court shall remain in effect, unless stayed by order of the supreme court. Service of summons on any member of commission shall be sufficient service on commission. *Laws 1911, ch. 238, sec. 21.*

See also par. 798.

LOUISIANA

If any railroad, express, telephone, telegraph, steamboat and other water craft, or sleeping car company, or other party in interest, be dissatisfied with the decision or fixing of any rate, classification, rules, charge, order, act or regulation, adopted by commission, such party may file a petition setting forth the cause or causes of objection to such decision, act, rule, rate, charge, classification or order, or to either or to all of them, in a court of competent jurisdiction, at the domicile of commission, against commission as defendant, and either party to said
4322 action may appeal the case to the supreme court of the state, without regard to the amount involved, and all such cases, both in the trial and appellate courts, shall be tried summarily, and by preference over all other cases. Such cases may be tried in the court of the first instance either in chambers, or at term time; provided, all such appeals shall be returned to the supreme court within ten days after the decision of the lower court; and where commission appeals, no bond shall be required. No bond shall be required of commission in any case, nor shall advance costs, or security for costs, be required of commission. *Const., art. 285.*

If any railroad, express, telephone, telegraph, steamboat, or other water craft, or sleeping car company, or individual, corporation or carrier, under the control or jurisdiction of commission, or other party in interest, shall be dissatisfied with any order entered by commission adopting, fixing, changing, altering, or modifying, any rate, classification, rule, charge, or general regulation, such dissatisfied company, corporation, or individual, may, within three months after any such order is made and becomes effective by commission and not thereafter, file in a court of com-
4323 petent jurisdiction at the domicile of commission, a petition set-

ting forth therein the particular cause or causes of objection to the order or regulation of commission, so complained of. All such cases shall be tried in the same manner as civil cases and shall be given precedence over all other civil cases in the said court, and shall be heard and determined as speedily as possible to the end that the public interests may not suffer by reason of such proceeding. Any such court shall have the power and authority to affirm the order of commission so complained of, or to change, modify, alter, or set aside the same, as justice may require. *Stats. 1908, no. 171, sec. 2.*

4324 No suit, not filed within the delay provided by section 2 of this act, to set aside, change, alter, or modify, the orders of commission shall be thereafter filed or entertained; the delay fixed by section 2 of this act being the prescriptive period, after which no such suits shall be filed, entertained, or heard. *Same, sec. 3.*

MAINE

See pars. 1112, 2584, 2585.

MARYLAND

4325 Any company, corporation, association, person or partnership or other person or party in interest, shall have the right to proceed in the courts to vacate, set aside or have modified any order of commission on the grounds that such order is unreasonable or unlawful, as hereinafter more particularly set forth. *Laws 1910, ch. 180, sec. 11.*

4326 Any corporation subject to this act, or any of the provisions of this act, and any person in interest being dissatisfied with any order of commission, fixing any rate or rates, tolls, charges, schedules, joint rate or rates, or any order fixing any regulations, practices, acts or service, may commence any action in the circuit court for any county, or before any judge of the supreme bench of Baltimore City, in any court of Baltimore City of appropriate jurisdiction, which may be adopted for the purpose, against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, tolls, charges, schedules, joint rate or rates, fixed in such order is unlawful, or that any such regulation, practice, act or service fixed in such order is unreasonable, in which action a copy of the complaint shall be served with the summons. *Same, sec. 43.*

Every proceeding, action, or suit to set aside, vacate or amend any determination or order of commission, or to enjoin the enforcement thereof or to prevent in any way such order or determination from becoming effective, shall be commenced, and

every appeal to the courts or right or recourse to the courts shall
4327 be taken or exercised within 60 days after the entry or rendition
of such an order or determination, and the right to commence
any such action, proceeding or suit, or to take or exercise any such
appeal or right of recourse to the courts, shall terminate abso-
lutely at the end of such 60 days after such entry or rendition
thereof. *Same.*

The answer of commission to the complaint shall be served
4328 and filed 20 days after service of the complaint, whereupon said
action shall be at issue and stand ready for trial upon 15 days'
notice to either party. *Same.*

All such actions shall have precedence over any civil cause
4329 of a different nature pending in such court, and the said courts
shall always be deemed open for the trial thereof, and the same
shall be tried and determined as other civil actions. *Same.*

If upon the trial of such action, evidence shall be introduced
by the plaintiff which is found by the court to be different from
that offered upon the hearing before commission, or any commis-
4330 sioner, or additional thereto, the court, before proceeding to
render judgment, unless the parties to such action stipulate in
writing to the contrary, shall transmit a copy of such evidence to
commission and shall stay further proceedings in said action for
15 days from the date of such transmission. *Same, sec. 44.*

Upon the receipt of such evidence commission shall consider
the same and may alter, modify, amend or rescind its order relat-
4331 ing to such rate or rates, tolls, charges, schedules, joint rate or
rates, regulations, practice, act or service complained of in said
action, and shall report its action thereon to said court within ten
days from the receipt of such evidence. *Same.*

If commission shall rescind its order complained of, the
action shall be dismissed; if it shall alter, modify or amend the
4332 same, such altered, modified or amended order shall take the place
of the original order complained of, and judgment shall be ren-
dered thereon as though made by commission in the first instance.
Same.

If the original order shall not be rescinded or changed by com-
4333 mission, judgment shall be rendered upon such original order.
Same.

Either party to said action, within 20 days after service of a
copy of the order or judgment of any court of Baltimore City or
of the circuit court of any county, may appeal to the court of
appeals of Maryland. Where an appeal is taken the cause shall,

4334 on the return of the record of the proceedings to the court of appeals of Maryland, be immediately placed on the docket of the then pending term of the court of appeals, and shall be assigned and brought to a hearing in the same manner as other causes on the docket. *Same, sec. 45.*

In all trials, actions and proceedings arising under the provisions of this act, or growing out of the exercise of the authority and powers granted herein to commission, the burden of proof shall be upon the party adverse to commission, or seeking to set
4335 aside any determination, requirement, direction or order of commission, to show by clear and satisfactory evidence that the determination, requirement, direction or order of commission complained of is unreasonable or unlawful, as the case may be. *Same, sec. 46.*

In all actions and proceedings in court arising under this act, all processes shall be served and the practice and rules of evidence shall be the same as in civil actions, except as otherwise herein
4336 provided. Every sheriff or other officer empowered to execute civil processes shall execute any process issued under the provisions of this act, and shall receive such compensation therefor as may be prescribed by law for similar services. *Same, sec. 47.*

MICHIGAN

Any common carrier or other party in interest, being dissatisfied with any order of commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices or services, may within 30 days from the issuance of such order and notice thereof commence an action in the circuit court in chancery against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates fixed are unlawful or unreasonable, or that any such regulation, practice or service fixed in such order is unreasonable; in which suit commission shall be served with a subpoena and a copy of the complaint. The commission shall file its answer, and on leave of court, any interested party may file an answer
4337 to said complaint. Upon the filing of the answer of commission said action shall be at issue and stand ready for hearing upon ten days' notice by either party. All suits brought under this section shall have precedence over any civil cause of a different nature pending in such court, and the circuit court shall always be deemed open for the hearing thereof, and the same shall proceed, be tried and determined as other chancery suits. Any

party to such suit may introduce original evidence in addition to the transcript of evidence offered to commission, and the circuit courts in chancery are hereby given jurisdiction of such suits and empowered to affirm, vacate or set aside the order of commission in whole or in part, and to make such other order or decree as the courts shall decide to be in accordance with the facts and the law. *Pub. 1909, no. 300, sec. 26(a).*

If, upon the trial of said action, evidence shall be introduced by the complainant which is found by the court to be different from that offered upon the hearing before commission, or additional thereto, the court, before proceeding to render judgment, unless the parties in such action stipulate in writing to the contrary, shall transmit a copy of such evidence to commission, and shall stay further proceedings in said action for 15 days from the date of such transmission. Upon receipt of such evidence commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, classifica-
4338 tions, joint rate or rates, regulations, practice or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence. If commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment shall be rendered upon such original order. *Same, sec. 26(c).*

Either party to said action, within 60 days after service of a copy of the order or judgment of the court, may appeal to the supreme court, which appeal shall be governed by the statutes governing chancery appeals. When the appeal is taken the case
4339 shall, on the return of the papers to the supreme court, be immediately placed on the calendar of the then pending term, and shall be brought to a hearing in the same manner as other cases on the calendar, or if no term is then pending, shall take precedence of cases of a different nature except criminal cases at the next term of the supreme court. *Same, sec. 26(d).*

In all actions under this section the burden of proof shall be
4340 upon the complainant to show by clear and satisfactory evidence that the order of commission complained of is unlawful or unreasonable, as the case may be. *Same, sec. 26(e).*

Also provisions for telephone companies substantially identical with the foregoing provisions for common carriers. *Pub. Acts 1911, no. 138, secs. 12, 14, 15, 16.*

In all actions and proceedings in court arising under this act all process shall be served and the practice and rules of evidence shall be the same as in actions in equity, except as otherwise herein provided. Every sheriff or other officer empowered to execute civil process shall execute any process issued under the provisions of this act, and shall receive such compensation therefor as may be prescribed by law for similar services. *Same, sec. 27(a).*

No person shall be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any violation of the provisions of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; provided, that no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying; provided, further, the immunity hereby conferred shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath, or produces evidence documentary or otherwise under oath. *Same, sec. 27(b).*

When any complaint is served upon commission under the provisions of section 26 of this act commission shall, before said action is reached for trial, cause the certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the circuit court of the county where the action is pending. *Pub. Acts 1909, no. 300, sec. 23(d).*

MINNESOTA Any party to a proceeding before commission, or any party affected by any order thereof, or the state of Minnesota, by the attorney general, may appeal therefrom to the district court of the county in which the complainants, or a majority of them, reside, or in case none of them reside in the state, or in case the order is made in a proceeding commenced by commission on its own motion without complaint, to the district court of any county in which the carrier or warehouseman has an office, agent or place of business, at any time within 30 days after service of a copy of such order on the parties of record, as in this chapter pro-

vided, by service of a written notice of appeal on commission or on its secretary. Upon service of said notice of appeal, commission, by its secretary, shall forthwith file, with the clerk of said district court to which said appeal is taken, a certified copy of the order appealed from, together with findings of fact on which the same is based. *Rev. Laws 1905, sec. 1971.*

The person serving such notice of appeal shall, within five days after the service thereof, file the same with proof of service with the clerk of the court to which such appeal is taken; and thereupon said district court shall have jurisdiction over said appeal, and the same shall be entered upon the records of said district court and shall be tried therein according to the rules relating to the trial of civil actions, so far as the same are applicable. The complainant before commission, if there was one (otherwise the state of Minnesota), shall be designated as complainant in the district court, and the carrier or warehouseman as defendant. No further pleadings than those filed before commission shall be necessary. Such findings of fact shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable; and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If 4846 it shall be determined that the order is unlawful or unreasonable, it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court, upon an examination of said order, and the return made on said appeal, and after giving the respondent notice and opportunity to be heard, shall so direct. If such appeal is not taken, such order shall become final, and it shall thereupon be the duty of the carriers affected to adopt and publish the rates or classifications therein prescribed. And all orders heretofore made, from which no appeal was taken, as provided by law, shall be deemed to have been in full effect for all purposes from the time when the right to appeal from such order expired. When no appeal is taken from an order, as herein provided, the parties affected by such order shall be deemed to have waived the right to have the merits of said controversy reviewed by a court, and there shall be no trial of the merits or reexamination of the facts of any controversy in which such order was made, by any district court to which application may be made for a writ to enforce the same. *Same, sec. 1972.*

When in any such case an appeal is taken or such question certified commission shall forthwith file with the clerk of the proper district court all papers, pleadings, evidence and orders in the proceeding, and thereupon such court shall have full jurisdiction to hear and determine the question of the jurisdiction of commission in reference to the matter appealed from or certified.

4347 Such proceeding may be brought on for hearing by either party on ten days' notice, either at a term or in vacation, and shall be heard upon the evidence taken before commission and such further evidence as may be offered by either party. If the order of commission is reversed, upon filing a copy of the order of reversal with commission it shall forthwith proceed to determine the reasonableness of such rates, fares, charges, and classification on the merits. *Same, sec. 1974.*

4348 In any proceeding under this chapter, or under any law relating to common carriers or public warehousemen, the court in its discretion may require a witness to answer any question, although his answer may tend to convict him of a crime, but no person so compelled to answer shall thereafter be liable to any prosecution for such crime. *Same, sec. 1977.*

4349 In any proceeding in district or supreme court under the provisions of this chapter, or under any law relating to common carriers or public warehousemen, whether by appeal or otherwise, the court may order the payment of such counsel fees and disbursements as it deems just and reasonable. *Same, sec. 1978.*

4350 All actions or proceedings instituted by commission shall be brought in the name of the state, and shall be prosecuted by the attorney general *Same, sec. 1979.*

Any party to an appeal or other proceeding in district court under the provisions of this chapter may appeal from the final judgment, or from any final order therein, in the same cases and manner as in civil actions. No bond shall be required from commission, and no such appeal shall stay the operation of such order or judgment unless the district or supreme court shall so direct, and unless the carrier appealing from a judgment or order fixing rates for transportation of persons or property shall give bond in a sum and with sureties approved by a judge of the court ordering
4351 the stay, conditioned that the appellant will refund to the person entitled thereto any amount received for such transportation above the amount finally fixed by the court. Any person paying such excessive charges shall have a claim for the excess, whether

paid under protest or not, and, unless refunded within 30 days after written demand made after final judgment, may recover the same by action against such carrier, or such carrier and the sureties on such bond. The appeal may be filed in the supreme court before or during any term thereof, and shall be immediately entered on the calendar and heard upon such notice as the court may prescribe. *Same, sec. 1980.*

See also par. 1248.

MISSISSIPPI

Whenever commission shall make an order, the validity of which shall be disputed upon the ground that commission was without power to make it, or whenever commission shall refuse to make an order asked for upon the ground that it was without power to make it, any person feeling aggrieved by the action of commission may appeal therefrom directly to the supreme court. Upon such appeal the supreme court shall decide **4352** nothing except as to the power of commission in the premises, and all other questions which may be involved shall remain unaffected thereby. In order to affect such appeal, bills of exception may be taken, which shall be signed by the presiding officer of commission, and it need only to contain such statements of fact as may be necessary to present for the consideration of the supreme court the question as to the power of commission in the premises. *Laws 1908, ch. 86, sec. 1.*

MISSOURI

When the subject in dispute shall be of the value of \$100 or more, either party to such proceeding before such court may appeal to the proper appellate court in the state, in the same manner that appeals are taken from such courts in this state in other proceedings involving like sums of money; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless stay of proceedings be ordered by the court from which the appeal is taken, or by the appellate court to which the appeal is taken, upon application of the appealing party. Whenever any such petition shall be filed by commission as aforesaid, it shall be the duty of the attorney general, when requested by commission **4353** to prosecute the same. All proceedings commenced upon such petition shall, upon application of the petitioner, be advanced upon the docket and take precedence of any other case upon the docket except criminal cases. The costs of such proceedings may be, with the approval of the attorney general and governor of the state, when such suit is brought by any private person, and when brought by commission shall be ordered by commission to be paid,

in the first instance, out of any money in the treasury not otherwise appropriated; and if upon final hearing the decision is against the said common carrier or other person against whom the proceeding is being prosecuted, such common carrier or person shall be liable for the costs, for which judgment may be rendered as in any other case. *Rev. Stats. 1909, sec. 3201.*

MONTANA

Actions to review the determination of commission fixing any classification, rate, toll, charge, regulation, or order, or the refusal of commission to make, fix or establish any classification, rate, toll, charge, regulation or order, shall be commenced in the district court of the county having jurisdiction thereof by the filing of a complaint, duly verified as provided for the verification of pleadings in civil actions, and notice may be served upon the party defendant, either by summons issued and served as provided for in the code of civil procedure in civil actions, or the court may issue an order directed to the defendant
4364 requiring him to answer the complaint at such time as the court may deem reasonable; provided, however, that such time shall not be less than five days from the time of the service of such order. Upon the appearance of the defendant, he may deny or admit the facts set forth in said complaint, by answer, which shall be verified as the pleadings in other civil actions. If upon the hearing the court shall find that the rates fixed or the classifications made are unjust and unreasonable, it shall thereupon be the duty of commission to make new rates or a reclassification, as the case may be. All orders or notices required under the provisions of this section may be issued by the court, or by the judge thereof at chambers. *Rev. Codes 1907, sec. 4384.*

Appeals may be taken to the supreme court from the judgment of any district court in any action brought under the provisions of this act; such appeals shall have precedence over all
4365 other business, except criminal business, and original proceedings in such court, and shall be heard and determined as are appeals in civil actions. *Same, sec. 4388.*

Any railroad may bring an action in the district court of the county where the principal office or place of business is situated, or in any county where any such classification, rate, toll, charge, regulation or order of commission is applicable, against commission as defendant, to determine whether or not any such classification, rate, toll, charge, regulation or order made, fixed or established by commission under the provisions of this act is just and reasonable; provided, that until the final decision in any such

4886 action the classification, rate, toll, charge, regulation or order of commission affecting rates or charges shall be deemed to be final and conclusive; and provided, further, that in any action, hearing or proceeding in any court, the classification, rate, tolls, charges, regulations and orders made, fixed and established by commission shall prima facie be deemed to be just, reasonable and proper. All costs and expenses incurred in the hearing, trial or appeal of any action brought under this section, shall be fixed and assessed as by the court may seem just and equitable. *Same, sec. 4390.*

Any shipper, or other person interested, may bring an action in the district court of the county where the principal office or place of business of such railroad is situated, or in any county where any classification, rate, toll, charge, regulation or order of commission is applicable, against commission as defendant, to determine whether or not any such classification, rate, toll, charge, regulation or order made, fixed or established by commission under the provisions of this act is just and reasonable; provided, 4887 that until the final decision in any such action, the classification, rate, toll, charge, regulation or order of commission affecting rates or charges shall be deemed to be final and conclusive, except as herein otherwise provided; and provided, further, that in any action, hearing or proceeding in any court, the classifications, rates, tolls, charges, regulations and orders made, fixed and established by commission shall prima facie be deemed to be just, reasonable and proper. Costs shall be awarded in all actions brought under the provisions of this section as in other civil causes. *Same, sec. 4391.*

NEBRASKA

No railway company or common carrier applying in any court for any temporary writ of injunction or other mandatory order, with reference to any or all of said rates so complained of, shall be entitled to any injunction or mandatory order unless it show to the court that there has been a hearing before commission with reference to said rate or rates, within the time fixed by commission for said rate or rates to go into force and effect, and shall attach to said application for said temporary 4888 writ of injunction or other mandatory order, and make the same a part thereof, a transcript of the record of commission upon said hearing with reference to the rate or rates complained of, which said transcript shall contain a copy of the complaint filed with commission, their decision and findings of fact with reference thereto, and all the evidence introduced at said hearing which

transcript shall be considered by the court in allowing or disallowing said temporary writ of injunction or other mandatory order. *Cobbey's Annot. Stats. 1909, sec. 10653(e).*

If any railway company, common carrier, or any other person or persons affected thereby, shall be dissatisfied with the decision of commission, affirming, revising, annulling or modifying any rate or rates complained of in original schedule, or any subsequent schedule which may be the subject of investigation, or with the decision of commission with reference to any rate, classification, rule, charge, order, act or regulation made or adopted by them, upon which there has been a hearing before commission, except as otherwise expressly provided for herein, such dissatisfied railway company, common carrier, person or persons affected may institute proceedings in the supreme court to reverse, vacate or modify the order complained of. The procedure to obtain such
4389 reversal, modification or vacation of any such order or regulation made and adopted, upon which a hearing has been had before commission, shall be governed by the same provisions now in force with reference to appeals and error proceedings from the district courts to the supreme court. The evidence presented before commission, as reported by its official stenographer and reduced to writing shall be duly certified by said stenographer and the chairman of commission as the true bill of exceptions which together with the pleadings and filings duly certified in said case under the seal of commission shall constitute the complete record and the evidence upon which the case shall be presented to the appellate court; provided, however, that the time for appeal from the orders and rulings of commission to the supreme court shall be limited to three months. *Same, sec. 10655.*

NEVADA

Whenever any complaint is served upon commission under the provisions of section 16 of this act commission shall, before said action is reached for trial, cause a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the district court of the county
4390 where the action is pending. A copy of such transcript shall be furnished on demand, free of cost, to any party to such investigation; and to all other persons, a copy, on payment of a reasonable amount therefor, to be fixed by commission. *Stats. 1907, ch. 44, sec. 13(c), as amended by Stats. 1909, ch. 121, sec. 6.*

Any railroad or other party in interest being dissatisfied with any order of commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any

regulations, practices or services, may, within 90 days, commence an action, in the district court of the proper county, against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order is unlawful or unreasonable, or that any such regulation, practice or service fixed in such order is unreasonable, in which action the adverse parties shall be
4361 served with a summons and copy of the complaint. Commission shall file its answer, and on leave of court, any interested party may file the answer to said complaint within 30 days after the service thereof, whereupon said action shall be at issue and stand ready for trial upon 20 days' notice by either party. All actions brought under this section shall have precedence over any civil cause of a different nature pending in such court, and the court shall always be deemed open for the trial thereof, and the same shall be tried and determined as other civil actions; any party to such action may introduce original evidence in addition to the transcript of the evidence offered to commission. *Same, sec. 16.*

If, upon the trial of such action, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to commission, and shall
4362 stay further proceedings in said action for 15 days from the date of such transmission. Upon receipt of such evidence commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, classifications, joint rate or rates, regulation, practice or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence. *Same, sec. 16(b).*

If commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place
4363 of the original order complained of, and judgment shall be rendered thereon, as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment shall be rendered upon such original order. *Same, sec. 16(c).*

Either party to said action within 60 days after service of a copy of the order or judgment of the court may appeal or take the

case up on error as in other civil actions. Where an appeal is
4364 taken the cause shall, on the return of the papers to the higher
court, be immediately placed on the calendar of the then pending
term, and shall be assigned and brought to a hearing in the same
manner as other causes on the calendar. *Same, sec. 16(d).*

In all actions under this section the burden of proof shall be
4365 upon the plaintiff to show by clear and satisfactory evidence that
the order of commission complained of is unlawful, or unreason-
able, as the case may be. *Same, sec. 16(e).*

Any party in interest being dissatisfied with an order of com-
mission fixing any rate or rates, fares, charges, classifications,
joint rate or rates, or any order fixing any regulations, practices
or services, may within 90 days commence an action in the dis-
trict court of the proper county against commission and other
interested parties as defendants to vacate and set aside any such
4366 order on the ground that the rate or rates, fares, charges, classi-
fications, joint rate or rates, fixed in such order is unlawful or un-
reasonable, or that any such regulation, practice, or service, fixed
in such order is unreasonable. The commission and other parties
defendant shall file their answers to said complaint within 30
days after the service thereof, whereupon such action shall be at
issue and stand ready for trial upon 20 days' notice to either
party. *Stats. 1911, ch. 162, sec. 26.*

NEW HAMPSHIRE Any party in interest aggrieved by any order
of commission or by any part of an order containing distinct and
severable provisions, may appeal therefrom by complaint in the
nature of a bill in equity, filed in the superior court in any county
in which the appealing party might commence an action at law,
or at the option of such party in the county of Merrimack, against
commission as defendant, to vacate and set aside such order or
part thereof upon the ground that the same is unlawful or
unreasonable. If such order contains distinct provisions, the
complaint shall state whether the whole thereof is claimed to be
unjust and unreasonable, and shall distinctly specify the portions
complained of it less than the whole. Upon the filing of such
4367 complaint the clerk of the superior court shall issue an order of
notice in accordance with equity practice, which shall be served
upon some member of commission. The answer of commission
shall be filed and a copy furnished to the appellant within 30 days
after service, whereupon the proceedings shall be at issue and
stand ready for trial upon 30 days' notice given by either party, to
the other, and the same shall be tried and determined as other

suits in equity. Any person or corporation interested may intervene and become a party to such proceedings, and the court may order such persons or corporations to be joined as parties as justice may require. All issues presented by such an appeal shall be tried and determined by the court. *Laws 1911, ch. 164, sec. 17(b).*

No proceeding other than the appeal herein provided for shall be maintained in any court of this state to set aside, enjoin the enforcement of, or otherwise review or impeach any order of commission, except for excess of jurisdiction or other errors cognizable under the general supervisory power. Every such appeal, ~~4988~~ and any other judicial proceeding to quash or otherwise review or obtain relief from any order of commission, shall be taken or exercised within 60 days after the entry or rendition of such order and not afterwards; provided, however, that the court may, upon petition, permit the commencement of such an appeal, for cause shown, at any time within 90 days from the entry or rendition of such order. *Same, sec. 17(c).*

Upon the trial of every such appeal, the order appealed from and the findings of commission upon all questions of fact properly before it shall be deemed prima facie lawful and reasonable, and the order appealed from shall not be set aside or vacated except for errors of law unless the court is satisfied by a clear preponderance of the evidence before it that such order is unjust or unreasonable. With the answer of commission there shall be filed a transcript of the testimony introduced before commission, together with the originals or copies of all exhibits introduced in ~~4989~~ evidence before commission. If, upon the trial of such appeal, evidence shall be introduced which is found by the court to be different from that offered upon the hearing before commission or additional thereto, the court, before rendering judgment, upon the request of either party, shall transmit a copy of such evidence to commission and stay further proceedings for 15 days from the date of such transmission. Upon receipt of such evidence, commission shall consider the same and may alter, modify, amend or rescind the order appealed from, and shall report its action thereon to the court within ten days from the receipt of such evidence. *Same, sec. 17(d).*

If commission shall rescind the order appealed from, the appeal shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and the court shall render

4370 judgment with reference thereto in said appeal as though such order had been made by commission in the first instance, after allowing any amendments of the pleadings or other incidental proceedings desired by the parties which the changed situation may require. If the original order shall not be rescinded, modified or altered by commission, judgment shall be rendered with reference to such original order. *Same, sec. 17(e).*

4371 The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the order complained of in whole or in part, as the case may be; but in case such order is wholly or partly vacated the court may also, in its discretion, remand the matter to commission for such further proceedings, not inconsistent with the decree, as in the opinion of commission justice may require. *Same, sec. 17(f).*

4372 In all trials, actions and proceedings arising under the provisions of this act or growing out of the exercise of the authority and powers granted herein to commission the burden of proof shall be upon the party adverse to commission or seeking to set aside any determination, requirement, direction or order of commission to show by clear and satisfactory evidence that the determination, requirement, direction or order of commission complained of is unreasonable or unlawful, as the case may be. *Same, sec. 17(h).*

4373 The provisions of this section shall not apply to appeals from the assessment of damages of eminent domain proceedings, but such appeals shall be taken and prosecuted as provided in section 13 of this act. *Same, sec. 17(i).*

NEW JERSEY Any order made by commission may be reviewed on the application of any person or public utility affected thereby, by certiorari in appropriate cases, or by petition, to the supreme court of the state, within 30 days from the date upon which such order becomes effective, as herein provided; said petition shall be filed with the clerk of the supreme court and a copy thereof served upon the secretary of commission either personally or by leaving same at the office of commission in the city of Trenton. The supreme court is hereby given jurisdiction to review said order of commission and to set aside such order when it clearly appears that there was no evidence before commission to support reasonably such order, or that the same was without the jurisdiction of commission. The evidence presented to commission, together with the finding of commission and any order issued thereon shall be certified by commission to the supreme

court. The procedure for review, except as herein provided, shall be prescribed by rules of the supreme court. *Laws 1911, ch. 195, sec. 38.*

NEW MEXICO

Upon application of any party to a proceeding for an order of removal to the supreme court¹ of any order, or in case of failure or refusal of any party to comply with such order within the time limit therein, commission shall make an order of removal, stating the cause of such removal. The clerk shall
4375 immediately transmit to the supreme court said order of removal together with the file of the proceeding and a copy of the record thereof duly certified by him. The supreme court¹ shall give notice of hearing upon such order of removal as herein provided for notice of hearings before commission. *Laws 1912, ch. 78, sec. 13.*

NEW YORK

See par. 3123.

NORTH CAROLINA

From all decisions or determinations made by commission, any party affected thereby shall be entitled to an appeal. Before such party shall be allowed to appeal, he shall, within ten days after notice of such decision or determination, file with commission exceptions to the decision or determination of commission, which exceptions shall state the grounds of objection to such decision or determination. If any one of such exceptions shall be overruled, then such party may appeal from the order overruling the exception, and shall within ten days after the decision overruling the exception, give notice of his appeal. When an exception is made to the facts as found by commission, the appeal shall be to the superior court in term time;
4376 otherwise to the judge of the superior court at chambers. The party appealing shall, within ten days after the notice of appeal has been served, file with commission exceptions to the decision or determination overruling the exceptions, which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement commission shall, within ten days, transmit all the papers and evidence considered by it, together with the assignment of errors filed by the appellant, to a judge of the superior court or residing in some district in which such company operates or the party resides. If there be no exceptions to any facts as found by commission, it shall be heard by

¹ In addition to the other powers vested in the supreme court by the constitution and the laws of the state, the said court shall have the power and it shall be its duty to decide such cases on their merits, and carry into effect its judgments, orders and decrees made in such cases, by fine, forfeiture, mandamus, injunction and contempt or other appropriate proceedings. *Const., art. xi, sec. 7.*

the judge at chambers at some place in the district, of which all parties shall have ten days' notice. *Pell's Revisal 1908, sec. 1074.*

The cause shall be entitled "State of North Carolina on relation of the Corporation Commission against (here insert name of appellant)," and if there are exceptions to any facts found by commission, it shall be placed on the civil issue docket of such court
4377 and shall have precedence of other civil actions, and shall be tried under the same rules and regulations as are prescribed for the trial of other civil causes, except that the rates fixed or the decision or determination made by commission shall be prima facie just and reasonable. *Same, sec. 1075.*

By consent of all parties the appeal may be heard and determined at chambers before any judge of a district through or into
4378 which the railroad may extend, or any judge holding court therein, or in which the person or company does business. *Same, sec. 1076.*

Either party may appeal to the supreme court from the judgment of the superior court under the same rules and regulations as are prescribed by law for appeals, except that the state, if it
4379 shall appeal, shall not be required to give any undertaking or make any deposit to secure the cost of such appeal, and such court may advance the cause on its docket so as to give the same a speedy hearing. *Same, sec. 1077.*

Any freight or passenger rates fixed by commission, when approved or confirmed by the judgment of the superior court, shall be and remain the established rates and shall be so observed
4380 and regarded by an appealing corporation until the same shall be changed, revised or modified by the final judgment of the supreme court, if there shall be an appeal thereto, and until changed by commission. *Same, sec. 1079.*

In all cases in which, upon appeal, a judgment of commission
4381 is affirmed, in whole or in part, the appellate court shall embrace in its decree a mandamus to the appellant to put said order in force, or so much thereof as shall be affirmed. *Same, sec. 1080.*

NORTH DAKOTA Any railroad, railroad corporation or common carrier subject to the provisions of this article, or any other person interested in the order made by commission may appeal to the district court of the proper county in the judicial district of this state from which the complaint arose, and which is the subject and basis of the order, from any order made by commission regu-

lating or fixing its tariffs of rates, fares, charges or classifications, or from any other order made by commission under the provisions of this article by serving a notice in writing upon the secretary of commission, or any one of commissioners within 20 days after such railroad, railroad corporation or common carrier shall receive notice from commission of the making and entry of such order. If the order appealed from does not regulate or fix the tariff of rates, fares or charges, the district court to which the appeal is taken may in its discretion suspend the operation and effect of the order appealed from, pending such appeal. The district courts of this state shall be deemed to be always in session for the purpose of hearing and determining all appeals taken under the provisions of this article. The party taking such appeal may bring the same on for hearing and determination at any time after taking such appeal, upon serving a notice to that effect upon any one of the commissioners or their secretary at least ten days prior to the day set for such hearing. The district court shall, upon 4883 the hearing of such appeal, receive and consider such evidence as may be adduced by either party and shall rescind, modify or alter said order appealed from in such manner as may be equitable and just. Any railroad, railroad corporation, common carrier, commission or any party interested in the decision of said court may appeal from the decision of the district court to the supreme court of this state by serving a notice of such appeal upon the opposite party within 20 days after the rendition of such decision and service of notice thereof. For the purpose of hearing such appeal the supreme court shall be deemed to be in session and appeals to it may be heard summarily by either party serving upon the other a notice of hearing at least 15 days before the day fixed for such hearing. When evidence has been taken before the district court such evidence shall be signed by the judge of said district court, the party presenting such evidence to said judge for signature, giving the other party five days' notice of the time and place for such presentation. The evidence signed as aforesaid shall become a part of the record in the case, and upon an appeal to the supreme court being taken as hereinbefore mentioned shall be transmitted by the clerk of the district court to the supreme court, together with all the records and files in the case. The supreme court may reverse, affirm or modify the decision of the district court as may seem equitable and just.

Rev. Codes 1905, sec. 4351.

OHIO

A railroad or other party in interest, dissatisfied with an order of commission fixing rate or rates, fares, charges, classifications, joint rate or rates, or fixing any regulations, practices, or services, may commence an action in a court of common pleas within 60 days after such order is given against
4383 commission as defendant to vacate and set aside such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order, are unlawful or unreasonable or that a regulation, practice or service fixed in such order is unreasonable, in which action the adverse parties shall be served with summons. *Code 1910, sec. 543.*

Upon being served with summons and before the action prescribed in the preceding section is reached for trial, commission shall cause a certified transcript of all proceedings had and testimony taken in the investigation before it to be filed with the
4384 clerk of the court of common pleas of the county where such action is pending, and file its answer. On leave of court, any interested party may file an answer to such complaint within ten days after the service thereof, whereupon the action shall be at issue, and stand ready for trial upon ten days' notice by either party. *Same, sec. 544.*

All actions brought under the last two preceding sections shall have precedence over a civil cause of a different nature pending in such court. The court of common pleas shall be open
4385 at all times for the trial thereof, and such actions shall be tried and determined as other civil actions. A party to such action may introduce original evidence in addition to the transcript of the evidence offered by commission. *Same, sec. 545.*

If, upon the trial of such actions, evidence is introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission, or additional there-
4386 to, unless the parties thereto stipulate in writing to the contrary, the court before rendering judgment, shall transmit a copy of such evidence to commission, and stay proceedings in the action for 15 days from the date of such transmission. *Same, sec. 546.*

Upon receipt of the evidence, commission shall consider it, and may alter, modify, amend or rescind its order relating to such
4387 rate or rates, fares, charges, classification, joint rate or rates, regulation, practice or service complained of in the action. The commission shall report its action thereon to the court within ten days from the receipt of such evidence. *Same, sec. 547.*

If commission rescinds the order complained of, the action

shall be dismissed; if it alter, modify or amend it, such altered, modified or amended order shall take the place of the original
4388 order, and judgment shall be rendered thereon, as though made by commission in the first instance. If the original order is not rescinded or changed by commission judgment shall be rendered on such original order. *Same, sec. 548.*

Within 60 days after service of a copy of the order or judgment of the court, either party to such action may appeal or take the case up on error as in other civil actions. In case of an appeal,
4389 immediately on the return of the papers to the higher court, the cause shall be placed on the calendar of the then pending term, and shall be assigned and brought to a hearing as other causes on the calendar. *Same, sec. 549.*

In actions under the preceding sections to vacate or set aside
4390 such order of commission, the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that such order is unlawful or unreasonable. *Same, sec. 550.*

Except when otherwise provided by law, all processes in actions and proceedings in a court arising under the provisions of this chapter shall be served, and the practice and rules of evidence
4391 be the same, as in civil actions. A sheriff or other officer empowered to execute civil processes shall execute process issued under the provisions of this chapter and receive compensation therefor as prescribed by law for like services. *Same, sec. 552.*

Upon application, commission shall furnish certified copies
4392 under its seal or any order made by it, which certified copy shall be prima facie evidence in a court or proceeding of the facts stated therein. *Same, sec. 554.*

A public utility or railroad or other party in interest, dissatisfied with an order of commission fixing or substituting or confirming any fare, toll, price, rate, charge, rental, schedule or classification, or any order fixing or substituting or confirming any regulation, practice, act or service, or any other order, finding, determination, direction or requirement of commission, may commence an action in the court of common pleas of Franklin county or of the county in which is located the principal office of the public utility or railroad within 60 days after such order is made, against commission as defendant, to vacate and set aside such
4393 order on the ground that the fare, toll, price, rate, charge, rental, schedule or classification fixed in such order, is unlawful or unreasonable, or that the regulation, practice, act or service, fixed in such order is unlawful or unreasonable; or that the order, find-

ing, determination, direction or requirement of commission is unlawful or unreasonable; in which action summons may be issued to any county or counties in this state and there served upon the adverse parties. Such action shall proceed as provided in sections 544, 545, 546, 547, 548, 549, 550, 551, 552 of the general code, which sections shall apply to public utilities with the same force and effect as to railroads. *Laws 1911, no. 325, sec. 72.*

OKLAHOMA

From any action of commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences, or public service of any transportation or transmission company, or refusing to approve a suspending bond, or requiring additional security thereon or an increase thereof, as hereinafter provided for, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provisions as to cost, as may be prescribed by law) may be taken by the corporation whose rates, charges, or classifications of traffic, schedule, facilities, conveniences, or service, are affected or by any person deeming himself aggrieved by such action, or (if allowed by law) by the state. Until otherwise provided by law, such appeal shall be taken in the manner in which appeals may be taken to the supreme court from the district courts, except that such an appeal shall be of right, and the supreme court may provide by rule for proceedings in the matter of appeals in any particular in which the existing rules of law are inapplicable. If such appeal be
4394 taken by the corporation whose rates, charges, or classifications of traffic, schedules, facilities, conveniences or service are affected, the state shall be made the appellee; but, in the other cases mentioned, the corporation so affected shall be made the appellee. The legislature may also, by general laws, provide for appeals from any other action of commission by the state or by any person interested, irrespective of the amount involved. All appeals from commission shall be to the supreme court only, and in all appeals to which the state is a party, it shall be represented by the attorney general or his appointed representative. No court of this state (except the supreme court, by way of appeals as herein authorized) shall have jurisdiction to review, reverse, correct, or annul any action of commission within the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with commission in the performance of its official duties; provided, however, that the writ of mandamus and prohibition shall lie from the supreme

court to commission in all cases where such writs, respectively, would lie to any inferior court or officer. *Const., art. ix, sec. 20.*

In no case of appeal from commission, shall any new or additional evidence be introduced in the supreme court; but the chairman of commission, under the seal of commission, shall certify to the supreme court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by commission as may be selected, specified, and required to be certified, by any party in interest, as well as such other evidence, so introduced or considered as commission may deem proper to certify. Commission shall, whenever an appeal is taken therefrom, file the record of the case, and as a part thereof, a written statement of the reasons upon which the
4398 action appealed from was based, and such statement shall be read and considered by the supreme court, upon disposing of the appeal. The supreme court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of commission appealed from, as well as any matter arising under such appeal; provided, however, that the act of commission appealed from shall be regarded as *prima facie* just, reasonable and correct; but the court may, when it deems necessary, in the interest of justice, remand to commission any case pending on appeal, and require the same to be further investigated by commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before commission by any party in interest), before the appeal is finally decided. *Same, sec. 22.*

Whenever the court, upon appeal, shall reverse an order of commission affecting the rates, charges, or the classifications of traffic of any transportation or transmission company, it shall, at the same time, substitute therefor such orders as, in its opinion, commission should have made at the time of entering the order appealed from; otherwise the reversal order shall not be valid. Such substituted order shall have the same force and effect (and none other) as if it had been entered by commission at the time
4399 the original order appealed from was entered. The right of commission to prescribe and enforce rates, charges, classifications, rules and regulations affecting any or all actions of commission heretofore entered by it and appealed from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or im-

paired by reason of the pendency of such appeal; but no order of commission, prescribing or altering such rates, charges, classifications, rules, or regulations, shall be retroactive. *Same, sec. 23.*

In cases appealed to the supreme court, if the judgment of commission is affirmed, it shall be the duty of the supreme court upon entering such judgment to direct the clerk of the court to deliver to commission a certified copy of such judgment. Commission shall within 10 days, if such judgments and costs shall not have been paid, enter judgment against the sureties on the appeal bond, without further notice or hearing, and shall within 30 days from the rendition of such judgment against the sureties of said appeal or suspending bonds, if the same

4397 shall not have been paid, issue an execution against the corporation, person or firm, and the sureties of said appeal or suspending bonds as provided in sec. 5 of this act. If the judgment of commission is reversed or modified by the supreme court, the same shall be remanded to commission with instructions to change or modify the former judgment of commission to conform to the opinion of the supreme court. The supreme court may remand any case for additional evidence or rehearing, and make such final order or judgment in the case as the court may deem proper. *Sess. Laws 1908, ch. 18, art. iii, sec. 6.*

OREGON

Whenever any complaint is served upon the commission under the provisions of section 6910 (Lord's Oregon Laws) commission shall before said suit is reached for trial, cause

4398 a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the county clerk of the county where the action is pending. A copy of such transcript shall be furnished on demand, free of cost, to any party to such investigation. *Gen. Laws 1907, ch. 53, sec. 29.*

Any railroad or other person, persons or corporation interested in or affected by any order of commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices or service, being dissatisfied therewith, may commence a suit in the circuit court of Marion county against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order, is unlawful, or that any such regulations, practice or service prescribed or fixed in such order is unreasonable, in which suit a copy of the complaint shall be served with the summons as in civil

4399 actions. Commission shall serve and file its answer to said com-

plaint within ten days after the service thereof, whereupon said suit shall be at issue and stand ready for trial upon ten days' notice by either party. All suits brought under this section shall have precedence over any civil cause of a different nature pending in said court, and the circuit court shall always be deemed open for the trial thereof, and the same shall be tried and determined as a suit in equity. In all trials under this section, and sections 33, 34, and 35 hereof, the burden of proof (shall) be upon the plaintiff to show by clear and satisfactory evidence that the order of commission complained of is unlawful, or unreasonable, as the case may be. *Same, sec. 32.*

If, upon the trial of such suit, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such suit stipulate in writing to the contrary, shall transmit a copy of such evidence to commission and shall stay further proceedings in said action for 15 days from the date of such transmission. Upon the receipt of such evidence commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, 4400 classification, joint rate or rates, regulation, practice, service or equipment complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence. If commission shall rescind its order complained of, the suit shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment or decree shall be rendered thereon, as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment shall be rendered upon such original order. *Same, sec. 34.*

Either party to said suit, within 60 days after the entry of the judgment or decree of the circuit court, may appeal to the supreme court. Where an appeal is taken the cause shall, on the 4401 return of the papers to the supreme court, be immediately placed on the calendar of the then pending term, and shall be assigned and brought to a hearing in the same manner as other causes on the calendar, but shall have precedence over civil causes of a different nature pending in said court. *Same, sec. 35.*

In all suits, actions and proceedings in court arising under this act all processes shall be served, and the practice and rules

of evidence shall be the same as in civil actions except as otherwise in this act provided. Every sheriff or other officer empowered to execute any process issued under the provisions of this act, shall receive such compensation therefor as may be prescribed by law for similar services. *Same, sec. 36.*

Whenever any complaint is served upon the commission under the provisions of section 54, commission shall, before said suit is reached for trial, cause a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the county clerk of the county where the action is pending. *Gen. Laws 1911, ch. 279, sec. 50.*

Any public utility or other person, persons or corporation interested in or affected by any order of commission fixing any rate or rates, tolls, charges, schedules, classifications, joint rate or rates, or any order fixing any regulations, practices, act or service, being dissatisfied therewith, may commence a suit in the circuit court of the county in which the hearing was held, against commission as defendant to vacate and set aside any such order or specified portion thereof on the ground that the order or portion thereof is unlawful, in which suit a copy of the complaint shall be served with the summons as in a suit in equity. Commission shall serve and file its answer to said complaint within ten days after the service thereof, whereupon said suit shall be at issue and stand ready for trial upon ten days' notice by either party. All suits brought under this section shall have precedence over any civil cause of a different nature pending in said court, and the circuit court shall always be deemed open for the trial thereof, and the same shall be tried and determined as a suit in equity. Every such suit to set aside, vacate or amend any determination or order of commission or to enjoin the enforcement thereof or to prevent any such order or determination from becoming effective, shall be commenced, and every appeal to the courts or right or recourse to the courts shall be taken or exercised within 90 days after the entry or rendition of such order or determination, and the right to commence any such action, proceeding or suit, shall terminate absolutely at the end of such 90 days after such entry or rendition thereof. *Same, sec. 54.*

If, upon the trial of such suit, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such suit stipulate in writing to the contrary, shall

transmit a copy of such evidence to commission and shall stay further proceedings in said action for 15 days from the date of such transmission. Upon the receipt of such evidence commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, 4405 classification, joint rate or rates, regulation, practice, service or equipment complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence. If commission shall rescind its order complained of, the suit shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place of the original order complained of, and judgment or decree shall be rendered thereon, as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment or decree shall be rendered upon such original order. *Same, sec. 56.*

Either party to said suit, within 60 days after the entry of the judgment or decree of the circuit court, may appeal to the supreme court. Where an appeal is taken the cause shall, on the 4406 return of the papers to the supreme court, be immediately placed on the calendar of the then pending term, and shall be assigned and brought to a hearing in the same manner as other causes on the calendar, but shall have precedence over civil causes of a different nature pending in said court. *Same, sec. 57.*

In all suits, actions and proceedings in court arising under this act all processes shall be served and the practice and rules of evidence shall be the same as in civil actions, except as otherwise in this act provided. In all trials, actions, suits and proceedings arising under the provisions of this act, or growing out 4407 of the exercise of the authority and powers granted herein to commission, the burden of proof shall be upon the party adverse to commission or seeking to set aside any determination, requirement, direction or order of commission, to show by clear and satisfactory evidence that the determination, requirement, direction or order of commission complained of is unreasonable or unlawful as the case may be. *Same, sec. 58.*

See also par. 1325.

RHODE ISLAND Any public utility or any complainant, aggrieved by any order of commission fixing any rate, toll, charge, joint rate or rates, or any order fixing any regulation, measurement, practice, act or service, may appeal to the supreme court for a reversal of such order on the ground that the rate, toll

charge, joint rate or rates, fixed in the order are unlawful or unreasonable, or that any such regulation, measurement, practice, act or service fixed in such order is unlawful or unreasonable. The party prosecuting the appeal shall file a petition with the clerk of the supreme court within seven days from the service of
4408 the order appealed from, and such petition shall set forth the grounds upon which it is claimed that the order appealed from is unlawful or unreasonable. Thereupon the clerk of the supreme court shall issue citation to all parties in interest, including commission, returnable at any time within 30 days from date of its issue in the discretion of the court, and the court shall hear and determine, as soon as may be, the matter, and either sustain or reverse the order appealed from. The court is hereby given authority to regulate the practice and procedure in such appeal by such rules as it may see fit to make; provided, that all such appeals shall have precedence over other civil cases in the supreme court. *Acts 1912, ch. 795, sec. 34.*

At any hearing in the course of such an appeal a transcript
4409 of the testimony before commission in such case, duly certified by the stenographer taking the same, and allowed by one of the commissioners, shall be admitted as testimony. *Same, sec. 36.*

If, upon the hearing of the appeal, newly discovered evidence shall be introduced by the appellant which is found by the court to be of such a character, and of sufficient importance, to warrant a reconsideration of the order appealed from, the court, before proceeding to render a final decision, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to commission and shall stay further proceeding in said action for 60 days from the date of such transmission. Upon the receipt of such evidence, commission
4410 shall consider the same and may alter, amend or rescind the order appealed from, and shall report its action thereon to the court within 50 days from the receipt of such evidence. If commission shall rescind the order appealed from, the appeal shall be dismissed. If it shall alter or amend the same, such altered or amended order shall take the place of the original order appealed from and the court shall render its decree thereon as though made by commission in the first instance. If the original order shall not be altered, amended or rescinded by commission, the final decision shall be rendered upon such original order and the final decree entered in conformity therewith. *Same, sec. 37.*

SOUTH CAROLINA *See par. 852.*

TEXAS

If any railroad company or other party at interest be dissatisfied with the decision of any rate, classification, rule, charge, order, act or regulation adopted by commission, such dissatisfied company or party may file a petition setting forth the particular cause or causes of objection to such decision, act, rate, rule, charge, classification or order, or to either or all of them, in a court of competent jurisdiction in Travis county, Texas, against commission as defendant. Said action shall have precedence over all other causes on the docket of a different
4411 nature, and shall be tried and determined as other civil causes in said court. Either party in said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court at either of its terms, and said action so appealed shall have precedence in said appellate court of all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days' notice. *Sayles' Civ. Stats. 1897, art. 4565.*

In all trials under the foregoing article, the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory
4412 evidence that the rates, regulations, orders, classifications, acts or charges complained of are unreasonable and unjust to it or them. *Same, art. 4566.*

VERMONT

Any party in interest may appeal to the supreme court from orders of commission relating to any matters arising under the preceding section, for the correction of any errors excepted to in the proceedings before commission, or in the form or substance of such orders on the facts found and reported by said commission. Such appeal shall be taken to and the cause entered in the supreme court in the county where the cause arises or is heard, in the manner and under the law and rules of procedure which govern such appeals from the court of chancery. The supreme court shall have the same power therein as it has over appeals from the court of chancery. It may reverse or
4413 affirm such orders of said commission and may remand the cause to commission with such mandates as law or equity requires; and commission shall enter judgment, order or decree in accordance with such mandate. Such appeal shall not stay or vacate an order of commission relating to any matters arising under the preceding section; but orders relating to rates, tariffs or charges may be stayed pending such appeal, if a judge of the supreme

court finds good cause therefor. If the order of commission ordering a lower rate, tariff or charge is affirmed, the railroad corporation shall be liable to the persons, firms or corporations which have paid the old rate pending such appeal, for the excess of the old rate over the new rate and interest thereon. *Pub. Stats. 1906, sec. 4536.*

4414 The chief judge of the supreme court may, upon petition of any party to an appeal from the judgment, order or decree of commission if, in his judgment the interest of justice or the public requires it, appoint a special term of the supreme court to be held at such time and place as he designates, for the purpose of hearing appeal or appeals. *Pub. Stats. 1906, sec. 4447.*

4415 The forms, pleadings, procedure and rules of practice before commission shall be prescribed by commission and printed for general use. Commission shall hear all matters and state its rulings when excepted to and its findings of facts, which shall have the force and effect of the reports of special masters in courts of equity, whenever the cause is taken by an appeal to the supreme court. *Same, sec. 4598.*

4416 Any party to a cause who feels himself aggrieved by the final order, judgment or decree of commission shall have the right to take the cause to the supreme court by appeal, for the correction of any errors excepted to in its proceedings, or in the form or substance of its orders, judgments and decrees, on the facts found and reported by commission. *Same, sec. 4599.*

4417 Appeals from commission shall be taken and the cause entered in the supreme court in the county where the cause arises, in the manner and under the law and rules of procedure which govern such appeals from the court of chancery. The supreme court shall have the same power therein as it has over appeals from such court. It may reverse or affirm the judgments, orders or decrees of commission, and may remand a cause to commission with such mandates as law or equity shall require; and commission shall enter judgment, order or decree in accordance with such mandates. Such appeal shall not vacate any judgment, order or decree of commission, but the supreme court or, when not in session, a judge thereof, may suspend execution of the same as justice and equity require, unless otherwise specifically required by law. *Same, sec. 4600.*

4418 The laws regarding the security for and recovery of costs in all cases, except inquiries into the cause of accidents or investigations regarding the public safety or convenience, shall be the

same as in the court of chancery, and appeals therefrom, unless otherwise specifically provided by law. *Same, sec. 4601.*

Any party to a cause who feels himself aggrieved by the final order, judgment or decree of commission, shall have the right to take the cause to the supreme court by appeal for the correction of any errors excepted to in its proceedings, or in the form or substance of its orders, judgments, and decrees on the facts found and reported by commission. In case of such an appeal from the final order, judgment or decree of commission, the proceedings shall be in accordance with the provisions of section 4600 of the public statutes. *Laws 1908, no. 116, sec. 12.*

VIRGINIA

From any action of commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences or public service of any transportation or transmission company, or refusing to approve a suspending bond, or requiring additional security thereon or an increase thereof, as provided for in subsection (e) of this section, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provision as to costs, as may be prescribed by law) may be taken by the corporation whose rates, charges or classifications of traffic, schedule, facilities, conveniences or service, are affected, or by any person deeming himself aggrieved by such action, or (if allowed by law) by the commonwealth. Until otherwise provided by law, such appeal shall be taken in the manner in which appeals may be taken to the supreme court of appeals from the inferior courts, except that such an appeal shall be of right, and the supreme court of appeals may provide by rule for proceedings in the matter of appeals in any particular in which the existing rules of law are inapplicable. If such appeal be taken by the corporation whose rates, charges, or classification of traffic, schedules, facilities, conveniences or service are affected, the commonwealth shall be made the appellee; but, in the other cases mentioned, the corporation so affected shall be made the appellee. The general assembly may also, by general laws, provide for appeals from any other action of commission, by the commonwealth or by any person interested, irrespective of the amount involved. All appeals from commission shall be to the supreme court of appeals only; and in all appeals to which the commonwealth is a party, it shall be represented by the attorney general or his legally appointed representative. No court of this commonwealth except the supreme court of appeals (by

way of appeals as herein authorized), shall have jurisdiction to review, reverse, correct, or annul any action of commission, within the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain or interfere with commission in the performance of its official duties; provided, however, that the writs of mandamus and prohibition shall lie from the supreme court of appeals to commission in all cases where such writs, respectively, would lie to any inferior tribunal or officer. *Const., sec. 156(d).*

In no case of appeal from commission shall any new or additional evidence be introduced in the appellate court; but the chairman of commission, under the seal of commission, shall certify to the appellate court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by, commission as may be selected, specified and required to be certified, by any party in interest, as well as such other evidence, so introduced or considered, as commission may deem proper to certify. Commission shall, whenever an appeal is taken therefrom, file with the record of the case, and as a part thereof, a written statement of the reasons upon which the action appealed from was based, and
4481 such statement shall be read and considered by the appellate court, upon disposing of the appeal. Appellate court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of commission appealed from, as well as any other matter arising under such appeal; provided, however, that the action of commission appealed from shall be regarded as prima facie just, reasonable and correct; but the court may, when it deems necessary, in the interest of justice, remand to commission any case pending on appeal, and require the same to be further investigated by commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before commission by any party in interest), before the appeal is finally decided. *Same, sec. 156(f).*

Whenever the court, upon appeal, shall reverse an order of commission affecting the rates, charges or the classification of traffic of any transportation or transmission company, it shall; at the same time substitute therefor such order as, in its opinion, commission should have made at the time of entering the order appealed from; otherwise the reversal order shall not be valid.

Such substituted order shall have the same force and effect (and none other) as if it had been entered by commission at the time
4422 the original order appealed from was entered. The right of commission to prescribe and enforce rates, charges, classifications, rules and regulations, affecting any or all actions of commission theretofore entered by it and appealed from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or impaired by reason of the pendency of such appeal; but no order of commission, prescribing or altering such rates, charges, classifications, rules or regulations, shall be retroactive. *Same, sec. 156(g).*

The commonwealth or any party aggrieved by any final finding, order, or judgment of commission shall have, of right, regardless of the amount involved, an appeal to the supreme court of appeals, same to be taken and perfected within six months from the date of such final finding, order, or judgment, and the supreme court of appeals may, on petition of the attorney general, or any other party so aggrieved, if said petition be presented within six months from the date of the final finding, order or judgment of commission, award a writ of supersedeas to any such final finding, order, or judgment, and may review, affirm, reverse or modify the same, as justice may require, and enter therein such order as may be right and just. All such appeals shall be taken and perfected, heard and determined, and the mandate of the supreme court of appeals certified down to commission in the same manner as appeals in equity causes from the
4423 circuit or corporation courts of this commonwealth to the supreme court; except, such appeals shall be heard and disposed of promptly by the supreme court, irrespective of its place of session, next after habeas corpus and commonwealth's cases already on the docket; provided, however, this section shall not be construed to interfere in any way with the provisions of subsections (d), (e), (f), and (g) of section 156 of the constitution, as to appeals from the action of commission, prescribing rates, charges, or classification of traffic, or affecting the train schedule of any transportation company, requiring additional facilities, conveniences, or public service of any transportation or transmission company, or refusal to approve a suspending bond, or requiring additional security thereon, or an increase thereof; but shall be construed to provide only for appeals from the final findings, orders and judgments of commission in cases not ex-

pressly provided for by the constitution. *Pollard's Code 1904, sec. 1313a(34).*

WASHINGTON

Any complainant or any public service company affected by any order of commission, and deeming it to be contrary to law, may, within 30 days after the service of the order upon him or it, apply to the superior court of the county in which such proceeding was instituted for a writ of review, for the purpose of having its reasonableness and lawfulness inquired into and determined. Such writ shall be made returnable not later than 30 days from and after the date of the issuance thereof, unless upon notice to all parties affected a further time be fixed by the court, and shall direct commission to certify its record in the case to the court. On such return day the cause shall be heard by the court, unless for good cause shown the same be continued. Said cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before commission and certified to by it. Upon such hearing the superior court shall enter judgment either affirming or setting aside the order of commission under review. In case said order is reversed by reason of commission failing to receive testimony properly proffered, the court shall remand the cause to commission with instructions to receive the testimony so proffered and rejected, and enter a new order based upon the evidence theretofore taken, and such as it is directed to receive. The court may, in its discretion, remand any cause which is reversed by it to commission for further action. *Laws 1911, ch. 117, sec. 86.*

Commission, any public service company or any complainant may, within 20 days after the entry of judgment in the superior court in any action of review, prosecute an appeal to the supreme court of the state. The appellant shall have 50 days after the entry of such judgment in which to serve and file his opening brief, and the respondent shall have 30 days after the service of such opening brief in which to answer the same. The appellant shall have 20 days after the service of respondent's brief in which to reply to the same. After the filing of such brief, or the expiration of the time for filing briefs, the cause shall be assigned for hearing at the earliest motion day of the court, or at such other time as the court shall fix, and the clerk of the court shall notify the attorneys for the respective parties of the date set for the hearing in time to permit the parties to participate in the hearing. Such appeal shall be taken by giving a notice of appeal in open court at the time of the rendition of judgment,

or by the service and filing of a notice of appeal within 20 days from and after the entry of the judgment. *Same, sec. 88.*

The original transcript of the record and testimony filed in the superior court in any action to review an order of commission, 4426 together with a transcript of the proceedings in the superior court, shall constitute the record on appeal to the supreme court. *Same.*

No appeal shall be effective, when taken by a public service 4427 company or a complainant, unless a cost bond on appeal in the sum of \$200 shall be filed within five days after the service of the notice of appeal. *Same.*

The superior court may, in its discretion, suspend its judgment pending the hearing in the supreme court, upon the filing of a bond, with good and sufficient surety, conditioned as provided for bonds upon actions for review, or upon such other or 4428 further terms and conditions as it may deem proper. The general laws relating to appeals to the supreme court shall, so far as applicable and not in conflict with the provisions of this act, apply to appeals taken under the provisions of this act. *Same.*

In all actions between private parties and public service companies involving any rule or order of commission, and in all actions for the recovery of penalties provided for in this act, or 4429 for the enforcement of the orders or rules issued and promulgated by commission, the said orders and rules shall be conclusive unless set aside or annulled in a review as in this act provided. *Same, sec. 99.*

Whenever commission has issued or promulgated any order or rule, in any writ of review brought by a public service company to determine the reasonableness of such order or rule, the 4430 findings of fact made by commission shall be prima facie correct, and the burden shall be upon said public service company to establish the order or rule to be unreasonable or unlawful. *Same, sec. 100.*

See also pars. 702, 703, 2605, 3481.

WISCONSIN

Whenever any complaint is served upon commission under the provisions of section 16 of this act commission shall, before said action is reached for trial, cause a certified tran- 4431 script of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the circuit court of the county where the action is pending. A copy of such transcript shall be furnished on demand, free of cost, to any party to such investigation. *Laws 1905, ch. 362, sec. 1797-13(c).*

Any railroad or other party in interest being dissatisfied with any order of commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices or service, may commence an action in the circuit court against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order, is unlawful, or that any such regulation, practice or service, fixed in such
4433 order is unreasonable, in which action the complaint shall be served with the summons. The commission shall serve and file its answer to said complaint within ten days after the service thereof, whereupon said action shall be at issue and stand ready for trial upon ten days' notice by either party. All actions brought under this section shall have precedence over any civil cause of a different nature pending in said court, and the circuit court shall always be deemed open for the trial thereof and the same shall be tried and determined as other civil actions. *Same, sec. 1797-16.*

If upon the trial of such action, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission, or additional thereto, the court before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to commission, and
4434 shall stay further proceedings in said action for 15 days from the date of such transmission. Upon the receipt of such evidence commission shall consider the same, and may alter, modify, amend or rescind its order relating to such rate or rates, fares, charges, classification, joint rate or rates, regulation, practice or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence. *Same, sec. 1797-16(b).*

If commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, such altered, modified or amended order shall take the place
4434 of the original order complained of, and judgment shall be rendered thereon, as though made by commission in the first instance. If the original order shall not be rescinded or changed by commission, judgment shall be rendered upon such original order. *Same, sec. 1797-16(c).*

Either party to said action, within 60 days after service of a copy of the order or judgment of the circuit court, may appeal

to the supreme court. Where an appeal is taken the cause shall,
4438 on the return of the papers to the supreme court, be immediately placed on the state calendar of the then pending term, and shall be signed and brought to a hearing in the same manner as other causes on the state calendar. *Same, sec. 1797-16(d).*

In all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of commission complained of is unlawful, or unreasonable,
4436 able, as the case may be, and all actions brought under the provisions of the foregoing section shall be commenced in the circuit court of Dane county. *Same, sec. 1797-16(e), as amended by Laws 1907, ch. 582.*

In all actions and proceedings in court arising under this act all processes shall be served, and the practice and rules of evidence shall be the same as in civil actions, except as otherwise
4437 herein provided. Every sheriff or other officer empowered to execute civil processes shall execute any process issued under the provisions of this act, and shall receive such compensation therefor as may be prescribed by law for similar services. *Same, sec. 1797-17.*

No person shall be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any violation of the provisions of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or
4438 subject him to penalty or forfeiture, but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture, for or on account of, any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; provided, that no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying. *Same, sec. 1797-17(a).*

Whenever any complaint is served upon the commission under the provisions of section 1797m-64 of this act, commission shall, before said action is reached for trial, cause a certified
4439 transcript of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the circuit court of the county where the action is pending. *Laws 1907, ch. 499, sec. 1797m-57.*

Any public utility and any person or corporation in interest being dissatisfied with any order of commission fixing any rate or rates, tolls, charges, schedules, joint rate or rates or any order

fixing any regulations, practices, act or service may commence an action in the circuit court for Dane county against commission as defendant to vacate and set aside any such order on the ground that the rate or rates, tolls, charges, schedules, joint rate or rates, fixed in such order is unlawful, or that any such regulation, practice, act or service fixed in such order is unreasonable, in which action the complaint shall be served with the summons. *Same, sec. 1797m-64(1).*

The answer of commission to the complaint shall be served and filed within ten days after service of the complaint, whereupon said action shall be at issue and stand ready for trial upon ten days' notice to either party. *Same, sec. 1797m-64(2).*

All such actions shall have precedence over any civil cause of a different nature pending in such court, and the circuit court shall always be deemed open for the trial thereof, and the same shall be tried and determined as other civil actions. *Same, sec. 1797m-64(3).*

Every proceeding, action or suit to set aside, vacate or amend any determination or order of commission or to enjoin the enforcement thereof or to prevent in any way such order or determination from becoming effective, shall be commenced, and every appeal to the courts or right or recourse to the courts shall be taken or exercised within 90 days after the entry or rendition of such order or determination, and the right to commence any such action, proceeding or suit, or to take or exercise any such appeal or right of recourse to the courts, shall terminate absolutely at the end of such 90 days after such entry or rendition thereof. *Same, sec. 1797m-65.*

If, upon the trial of such action, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before commission or its authorized agent, or additional thereto, the court before proceeding to render judgment unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to commission and shall stay further proceedings in said action for 15 days from the date of such transmission. *Same, sec. 1797m-67(1).*

Upon the receipt of such evidence commission shall consider the same and may alter, modify, amend or rescind its order relating to such rate or rates, tolls, charges, schedules, joint rate or rates, regulations, practice, act or service complained of in said action, and shall report its action thereon to said court within

ten days from the receipt of such evidence. *Same, sec. 1797m-67(2).*

If commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify or amend the same, 4446 such altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by commission in the first instance. *Same, sec. 1797m-68(1).*

If the original order shall not be rescinded or changed by 4447 commission judgment shall be rendered upon such original order. *Same, sec. 1797m-68(2).*

Either party to said action, within 60 days after service of a copy of the order or judgment of the circuit court, may appeal to the supreme court. Where an appeal is taken the cause shall, 4448 on the return of the papers to the supreme court, be immediately placed on the state calendar of the then pending term and shall be assigned and brought to a hearing in the same manner as other causes on the state calendar. *Same, sec. 1797m-69.*

In all trials, actions and proceedings arising under the provisions of this act or growing out of the exercise of the authority and powers granted herein to commission, the burden of proof shall be upon the party adverse to commission or seeking to set 4449 aside any determination, requirement, direction or order of commission to show by clear and satisfactory evidence that the determination, requirement, direction or order of commission complained of is unreasonable or unlawful as the case may be. *Same, sec. 1797m-70.*

In all actions and proceedings in court arising under this act all processes shall be served and the practice and rules of evidence shall be the same as in civil actions, except as otherwise 4450 herein provided. Every sheriff or other officer empowered to execute civil processes, shall execute any process issued under the provisions of this act and shall receive such compensation therefor as may be prescribed by law for similar services. *Same, sec. 1797m-71.*

See also pars. 1330, 1336, 3217, 3218, 3219, 3234, 3235, 3236, 3303.

F. STAY OR SUSPENSION OF ORDERS OF COMMISSION.

ARIZONA

No court of this state shall have jurisdiction to enjoin, restrain, suspend or delay any order or decision of commission, or to enjoin, restrain or interfere with commission
4481 in performance of its official duties, and the rules, regulations, orders or decrees fixed by commission shall remain in force pending the decision of the courts; provided, that the writ of mandamus shall lie from the supreme court to commission in all proper cases. *Sess. Laws 1912, ch. 90, sec. 67(h).*

All rules, regulations, orders, charges and decrees of commission shall remain in full force and effect pending a final decision
4482 of the court with reference thereto. No order staying, restraining or suspending any order, rule, regulation, charge, or decree of commission shall be made by any court of this state. *Same, sec. 68.*

CALIFORNIA

No court of this state (except the supreme court to the extent herein specified) shall have jurisdiction to review, reverse, correct or annul any order or decision of commission or to suspend or delay the execution or operation thereof,
4483 or to enjoin, restrain or interfere with commission in the performance of its official duties; provided, that the writ of mandamus shall lie from the supreme court to commission in all proper cases. *Stats. 1911, 1st. ex. sess., ch. 14, sec. 67.*

The pendency of a writ of review shall not of itself stay or suspend the operation of the order or decision of commission,
4484 but during the pendency of such writ, the supreme court in its discretion may stay or suspend, in whole or in part, the operation of commission's order or decision. *Same, sec. 68(a).*

No order so staying or suspending an order or decision of commission shall be made by the supreme court otherwise than upon three days' notice and after hearing, and if the order or decision of commission is suspended, the order suspending the
4485 same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner and specifying the nature of the damage. *Same, sec. 68(b).*

In case the order or decision of commission is stayed or suspended, the order of the court shall not become effective until

a suspending bond shall first have been executed and filed with, and approved by commission (or approved, on review, by the supreme court), payable to the people of the state, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review of all damages caused by the delay in the enforcement of the order or decision of commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity or service in excess of the charges fixed by the order or decision of commission, in case said order or decision is sustained. The supreme court, in case it stays or suspends the order or decision of commission in any matter affecting rates, fares, tolls, rentals, charges or classifications, shall also by order direct the public utility affected to pay into court, from time to time, there to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the order or decision of commission had not been stayed or suspended. *Same, sec. 68(c).*

In case the supreme court stays or suspends any order or decision lowering any rate, fare, toll, rental, charge or classification, commission, upon the execution and approval of said suspending bond, shall forthwith require the public utility affected, under penalty of the immediate enforcement of the order or decision of commission (pending the review and notwithstanding the suspending order), to keep such accounts verified by oath, as may, in the judgment of commission, suffice to show the amounts being charged or received by such public utility, pending the review, in excess of the charges allowed by the order or decision of commission, together with the names and addresses of the corporations or persons to whom overcharges will be refundable in case the charges made by the public utility, pending the review, be not sustained by the supreme court. The court may, from time to time, require said party petitioning for a review to give additional security on, or to increase the said suspending bond, whenever in the opinion of the court the same may be necessary to insure the prompt payment of said damages and said overcharges. Upon the final decision by the supreme court all moneys which the public utility may have collected, pending

the appeal in excess of those authorized by such final decision, together with interest, in case the court ordered the deposit of such moneys in a bank or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such manner and through such methods of distribution as may be prescribed by commission. If any such moneys shall not have been claimed by the corporations or persons entitled thereto within one year from the final decision of the supreme court, commission shall cause notice to such corporations or persons to be given by publication, once a week for two successive weeks, in a newspaper of general circulation, printed and published in the city and county of San Francisco, by such other newspaper or newspapers as may be designated by commission, said notice to state the names of the corporations or persons entitled to such moneys and the amount due each corporation or person. All moneys not claimed within three months after the publication of said notice shall be paid by the public utility, under the direction of commission, into the state treasury for the benefit of the general fund. *Same, sec. 68(d).*

COLORADO The taking and pendency of appeal shall of itself stay or suspend the operation of the decision, order or requirement of commission and any and all penalties for failure to comply with the requirements thereof. *Laws 1910, sp. sess., ch. 5, sec. 17.*

CONNECTICUT Every appeal shall be a supersedeas of the order, authorization, or decision appealed from, except as otherwise provided by statute; provided, that the court to which any appeal is brought, or, if such court is not in session, any judge of the superior court, may at any time order that such appeal shall not so operate if, in the opinion of such court or judge, the appeal is brought for the purposes of delay, or if justice, or equity, or public safety, or expediency shall so require; or such court or judge may order that such appeal shall so operate only upon compliance by the parties, or any of them, with such terms or conditions as such court or judge may determine. *Pub. Acts 1911, ch. 128, sec. 33.*

FLORIDA No supersedeas shall be granted from any order, decree or judgment of any court rendered in favor of commission upon any proceeding instituted or caused to be instituted by commission by or for mandamus, injunction, mandatory injunction, prohibition or procedendo, to compel the observance

of the provisions of this act, as to any rule, rate or regulation of commission made thereunder, but any such order, decree or judgment shall be respected and obeyed until finally disposed of
4460 by the appellate court, but supersedeas may be granted in any other suit or case brought under the provisions of this act in which a supersedeas could in a similar suit or case be brought under the provisions if other laws of this state be granted, but any such supersedeas shall be granted only upon good cause shown satisfactory to the judge before whom the cause was tried and upon such terms and conditions as may appear to such judge reasonable and proper and consistent with the prompt enforcement of the provisions of this chapter. *Gen. Stats. 1906, sec. 2923.*

INDIANA No court shall issue any restraining order against commission until reasonable notice of the application therefor has been given, and a hearing has been had and in case commission is entitled in any cause to a restraining order the same shall be issued by all such courts without requiring bond or surety
4461 from commission. In case any such court shall by its order, pending final hearing, suspend the operation of any rates established by commission, it shall, in its order and the bond required to be filed therein, secure to the public, without further action the rights and obligations which shall accrue, during the litigation under such rates, if the same be finally sustained by the court. *Acts 1907, ch. 241, sec. 6.*

MARYLAND No injunction shall issue suspending or staying any order of commission, except upon application to one of the
4462 judges of the supreme bench of Baltimore City, or to the circuit court of one of the counties, and upon notice to commission and after hearing. *Laws 1910, ch. 180, sec. 43.*

MICHIGAN No injunction shall issue suspending or staying any order of commission, except upon application to the circuit
4463 court in chancery or to the judge thereof, notice to commission having been given and hearing having been had thereon. *Pub. Acts 1909, no. 300, sec. 26(b). Pub. Acts 1911, no. 138, sec. 13.*

MINNESOTA Whenever any common carrier doing business in this state shall fail or refuse to adopt and put into effect any rates prescribed by the statute, or any rates prescribed by an order of commission after the time for appeal from such order has expired, and such rates have by the terms of such law or order become effective, it shall be the duty of the attorney general to

forthwith commence appropriate proceedings for and in the name of the state for the enforcement of the law or the order prescribing such rates in the district court of Ramsey county or in the district court of any county in which such common carrier has an
4464 agent or station, or in which its said business is carried on, and during the pendency of such proceedings or during the pendency of any proceedings instituted in any court having jurisdiction by or on behalf of such common carrier to resist the enforcement of such law or such order, it shall be the duty of every common carrier to keep a correct account of every charge made by it for any service to which such rates apply in excess of the rates so prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged under such rates, the date of the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee. *Laws 1909, ch. 195, sec. 1.*

Every such common carrier shall on or before the tenth day of each month, report such information in full covering the business of the preceding month to commission, and commission shall
4465 carefully preserve such information in its office. *Same.*

Within 60 days after such judicial proceedings, brought to enforce or to resist the enforcement of such rates are ended by the entry of final judgment therein—unless by such judgments said rates are found to be unlawful—every such common carrier shall pay to commission for the benefit of the parties entitled thereto, all sums so charged and collected by it on the business to which such rates apply, in excess of the rates so prescribed with law-
4466 ful interest thereon from the date when each item thereof was received, and it shall thereupon be the duty of commission to pay such money with said interest to the person, firm or corporation by or for whom the same was paid to such common carrier, and for the purposes of this act the person holding the original receipted freight bill showing the payment thereof to such common carrier shall be taken to be the person entitled to so receive such money. *Same, sec. 2.*

If any common carrier affected by such rates shall fail or refuse to pay to commission within the time aforesaid all moneys so collected by it in excess of the amount lawfully collectible under the rates so prescribed or to file with the commission within said time the written release of his claim signed by the person entitled to such restitution, it shall be the duty of commission to report
4467 such default of such common carrier to the attorney general who

shall thereupon bring an action in the name of the state for the benefit of the parties having paid such overcharges, to recover the same from such common carrier, and it shall have the exclusive right, to sue for and collect such money of said common carrier and in such action in addition to the aggregate amount of such excess charges and interest, the court shall allow ten per cent. thereof additional as a penalty. *Same, sec. 3.*

4468 All persons entitled to any part of such money shall file their claims therefor within one year from the time when the litigation involving the validity of said rates is ended. *Same.*

4469 And all amounts paid to or recovered by commission, not so claimed, shall be paid into the state treasury to the credit of the general revenue fund. *Same.*

Every common carrier and the officers and agents thereof whose duty it is to make collections of any such rates and keep the accounts thereof, who shall wilfully fail or neglect to keep 4470 such accounts as are herein provided for, or who shall make any intentional false account, entry or report in reference thereto, or who shall fail to make the reports herein provided to be made to commission, shall be guilty of a misdemeanor. *Same, sec. 4.*

4471 All provisions of law prescribing any other procedure for the enforcement of any rate or schedule of rates that have been heretofore or may be hereafter prescribed either by act of the legislature or by any order of commission applying to the intrastate business of any common carrier doing business in this state or prescribing any penalty for the failure of any common carriers to put any such rates into effect are hereby repealed, but the court in which proceedings for the enforcement of such rates may be pending may impose penalties for disobedience to its orders made in such proceedings as for contempt. *Same, sec. 5.*

NEBRASKA

In no case shall the filing of a supersedeas bond suspend the putting in force or operation of any decision, regulation, rate, schedule or order of commission, of any nature whatsoever, unless such supersedeas bond is conditioned and in sufficient 4472 amount to be approved by commission to insure the prompt refunding by the appealing common carrier to the parties entitled thereto, of all charges which such common carrier may collect or receive pending the appeal in excess of those fixed or authorized by the final decision in said cause by the supreme court. *Cobbey's Annot. Stats. 1909, sec. 10655.*

No appeal to supreme court shall operate to stay or supersede the order of the court of the issuance of execution thereon and

4473 such court may in every such matter order the payment of such costs and attorney and counsel fees as shall be deemed reasonable. *Same, sec. 10659.*

NEVADA

No injunction shall issue suspending or staying

4474 any order of commission except upon application to the court or judge thereof, notice to commission having been first given and hearing having been had thereon. *Stats. 1907, ch. 44, sec. 16(a).*

NEW HAMPSHIRE

No appeal or other proceedings taken from an order of commission shall suspend the operation of such order; provided, however, that the superior court may order a suspension of such order pending the determination of such appeal or other proceeding whenever, in the opinion of the court, justice may require such suspension; but no order providing for a reduction of rates, fares or charges shall be suspended except upon conditions to be imposed by the court providing a means for securing the prompt repayment of all excess rates, fares and charges over and above the rates, fares and charges which shall be finally determined to be reasonable and just. Any order of the court suspending an order of commission fixing reasonable rates, fares, charges

4475 or prices, shall, among other things, provide that the railroad corporation or public utility affected by the order suspended shall keep such accounts as shall suffice to show the amount being collected by such railroad corporation or public utility, pending the appeal, in excess of the amounts which it would have collected if the order or decree of commission had not been suspended, and that any such excess shall be impounded within the state or paid into court. Whenever there is occasion after final decision for the distribution of said excess, any violation on the part of any railroad corporation or public utility, or of the officers or members thereof, of the order of the court providing for the repayment of said excess may be punishable as a contempt of court. *Laws 1911, ch. 164, sec. 17(g).*

NEW JERSEY

The allowance of a writ of certiorari or the institution of any proceeding to review any order of commission by the supreme court, shall in no case supersede or stay the order,

4476 unless the supreme court, or a justice thereof, shall so direct, and the appellant may be required by the supreme court or a justice thereof, to give bond in such form and of such amount as the supreme court, or the justice thereof allowing the stay, shall require. *Laws 1911, ch. 195, sec. 39.*

NORTH CAROLINA The rates of freight and fare fixed by commission shall be and remain the established rates and shall be so observed and regarded by corporations appealing until the same shall be changed, reversed or modified by the judgment of the superior court, unless the railroad company shall within 15 days file with commission a justified undertaking, in a sum to be fixed by commission, conditioned to pay the state the difference between the aggregate freights charged or received and those fixed by commission, and to make a report of freights charged or received every three months during the pendency of such appeal; and whenever such difference in freights equals or exceeds the
4477 penalty of such undertaking commission may require another to be executed and filed with them. From the time the undertaking first mentioned is filed the judgment appealed from shall be vacated; but a failure for ten days to file any additional undertaking required by commission shall *eo instanti* revive such judgment. Out of the funds paid into the state treasury under this section there shall be refunded to shippers the overpaid freight ascertained by the final determination of the appeal on the recommendation of commission, if application therefor is made within one year from such final determination. *Pell's Revisal 1908, sec. 1078.*

No judge shall grant an injunction, restraining order or other process staying or affecting during the pending of any appeal the enforcement of any determination of commission fixing rates or fares, without requiring as a condition precedent the executing and filing with commission of a justified undertaking in the sum
4478 of not less than \$25,000 for any company whose road is of less length than 50 miles, and \$50,000 for any company whose road is over 50 miles in length, conditioned that the company will make and file with commission a sworn statement every three months during the pending of the appeal of the items of freight, with names of shippers, carried over such companies' road within the pending 90 days, showing the freights charged and those fixed by commission; and in the event of the determination of commission appealed from is affirmed in part or in whole such company shall within 30 days pay into the treasury the aggregate difference between the freights collected and those fixed by the final determination of the matter appealed. *Same, sec. 1082.*

Whenever the aggregate difference between the freights collected and those fixed by commission shall equal or exceed the sum specified in the undertaking, commission shall notify the

appellant that another justified undertaking in like sum and with the same conditions as the original undertaking is required to be executed and filed with commission. A failure to file with
4479 commission the sworn statement provided for in the preceding section, or any one of them when more than one is required or asked for, or a failure to give an additional undertaking when required within 15 days from notice so to do, shall vacate and render null and void any restraining order, injunction or other process to stay the enforcement of any determination of commission as to schedule of rates. *Same, sec. 1083.*

When any of the conditions of such undertakings are broken it may be sued on and enforced in the name of the state on the relation of commission by summons returnable to the superior court of any county in the state at a regular term thereof. The solicitor of the district shall prosecute the action in his court in
4480 behalf of the state, and shall be allowed such fees, to be taxed in the bill of costs, as the court may order; and the attorney general shall prosecute an appeal to the supreme court on behalf of the state and shall be allowed such fees, to be taxed in the bill of costs, as the court shall allow. *Same, sec. 1084.*

In cases where the sworn statements herein required to be made are not made the whole penalty of the undertaking shall be enforced and paid into the state treasury. The sums paid into the treasury under the provisions of this section shall be used to reimburse the shippers of freight for the excess of freights paid
4481 over what should have been paid, such reimbursements to be made on recommendation of commission; provided application therefor is made within one year after the determination of the appeal in which the undertaking was given. The recovery in each undertaking shall be applied during the period covered by such undertaking. *Same, sec. 1085.*

OHIO

No injunction shall issue suspending or staying an order of commission except upon the application to the court
4482 of common pleas or judge thereof, after notice has been given to commission, and there has been a hearing thereon. *Code 1910, sec. 551.*

No complaint or appeal to commission shall suspend, vacate, or set aside the rate, price, charge, toll or rental fixed by ordinance unless such public utility shall elect to charge the rate, price, charge, toll or rental in force and effect immediately prior to the taking effect of the regulation complained of and appealed from, and shall give an undertaking in such amount as

commission shall determine. The undertaking shall be filed with commission and shall be payable to the state for the use and benefit of the consumers affected by the regulation in question. The condition of the undertaking shall be that such public utility shall refund to each of its consumers, public or private, the amount collected by it in excess of the amount which shall finally be determined it was authorized to collect from such consumers. The commission shall make all necessary orders in respect to the form of such undertaking and the manner of making such refunders. *Laws 1911, no. 325, sec. 47.*

Upon the commencement of any action, the operation of the order, finding, determination, direction or requirement complained of shall not be suspended until the determination of said action, unless the court or a judge thereof, after notice of and hearing, shall otherwise order and the court or judge thereof may, after hearing, fix the terms and conditions for the suspension of said order, finding, determination, direction or requirement or any part thereof. *Same, sec. 73.*

Provided, however, that the commencement of such action to vacate and set aside any order of commission with respect to any fare, toll, price, rate, charge, or rental, shall vacate and suspend the order of commission sought to be vacated, if such public utility or railroad shall elect to charge the fare, toll, price, rate, charge, or rental in force and effect immediately prior to the entering of such order of commission, and shall give an undertaking in such amount as the court shall determine. The undertaking shall be filed with the court and shall be payable to the state for the use and benefit of the users affected by the order of commission. The condition of the undertaking shall be that the public utility or railroad shall refund to each of such users, public or private, the amount collected by it in excess of the amount which shall finally be determined it was authorized to collect from such users. The court shall make all necessary orders in respect to the form of such undertaking and the manner of making such refunders. *Same.*

OKLAHOMA

Upon the granting of an appeal, a writ of superedeas may be awarded by the supreme court, suspending the operation of the action appealed from until the final disposition of the appeal; but, prior to the final reversal thereof by the supreme court no action of commission prescribing or affecting the rates, charges or classifications of traffic of any transportation or transmission company shall be delayed, or suspended, in its operation by reason of any appeal by such corporation, or by reason

of any proceeding resulting from such appeal, until a suspending bond shall first have been executed and filed with, and approved by commission (or approved, on review, by the supreme court), payable to the state, and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal in excess of those fixed, or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding any supersedeas), of the order or requirement appealed from, to keep such accounts, and to make to commission, from time to time, such
4496 reports verified by oath, as may, in the judgment of commission, suffice to show the amounts being charged or received by the company, pending the appeal, in excess of the charge allowed by the action of commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company, pending the appeal, be not sustained on such appeal; and commission shall so, from time to time, require such company, under like penalty, to give additional security on, or to increase the said suspending bond, whenever, in the opinion of commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal in excess of that authorized by such final decision shall be promptly refunded by the company to the parties entitled thereto, in such manner and through such methods of distribution as may be prescribed by commission, or by law. All such appeals, affecting rates, charges, or classifications of traffic, shall have precedence upon the docket of the supreme court, and shall be heard and disposed of promptly by the court, irrespective of its place of session, next the habeas corpus, and state cases already on the docket of the court. *Const., art. IX, sec. 21.*

OREGON

After the commencement of such suit the circuit court may for cause shown, upon application to the circuit court or presiding judge thereof, and upon notice to commission and hearing, suspend or stay the operation of the order of commission complained of until the final disposition of such suit, upon the giving of such bond or other security, and upon such condi-

tions as the court may require; and if such order of injunction suspends the order or requirement of commission fixing rates, then the court shall require a bond with good and sufficient surety, conditioned that the railroad or railroads applying for such injunction shall answer for all damages caused by the delay in the enforcement of the order of commission and all compensation for whatever sums for transportation any person or corporation shall be compelled to pay in excess of the sums such person or corporation would have been compelled to pay if the order of commission had not been suspended; and such bond shall cover
4487 the periods transpiring from time of the issuance of any such injunction until the final determination of the question litigated. The said bond shall be executed in favor of commission for the benefit of whom it may concern, and shall be enforceable by commission or any person interested, in an appropriate proceeding. Any person paying charges found to be excessive shall have a claim for the excess, whether paid under protest or not, and unless refunded within 30 days after written demand made after final judgment, may recover the same by action against such railroad, or such railroad and the sureties on such bond. Claims of persons for money collected in excess of the amount payable under the rate or rates established by commission shall be assignable in the same manner as any chose in action. No appeal to the supreme court shall stay the operation of any order of commission unless the circuit or supreme court shall so direct, and unless the railroad so appealing shall give a bond with like conditions and terms as that given on granting injunctions suspending an order of commission fixing rates. *Gen. Laws 1907, ch. 53, sec. 33.*

After the commencement of such suit the circuit court may for cause shown, upon application to the circuit court or presiding judge thereof, and upon notice to commission and hearing, suspend or stay the operation of the order of commission complained of until the final disposition of such suit, upon the giving of such bond or other security, and upon such conditions as the court may require; and if such order of injunction suspends the order or requirement of commission fixing rates, then the court shall require a bond with good and sufficient surety, conditioned that the public utility or public utilities applying for such injunction shall answer for all damages caused by the delay in the enforcement of the order of commission, and all compensation for whatever sums any person or corporation shall be compelled to pay in excess of the sums such person or corporation would have been compelled to

pay if the order of commission had not been suspended; and such bond shall cover the periods transpiring from time of the issuance of any such injunction until the final determination of the question litigated. The said bond shall be executed in favor of commission for the benefit of whom it may concern, and shall be enforceable by commission or any person interested, in any appropriate proceeding. Any person paying charges found to be excessive shall have a claim for the excess, whether paid under protest or not, and unless refunded within 30 days after written demand made after final judgment, may recover the same action against such public utility, or such public utility and the sureties on such bond. Claims of persons for money collected in excess of the amount payable under the rate or rates established by commission shall be assignable in the same manner as any chose in action. No appeal to the supreme court shall stay the operation of any order of commission unless the circuit or supreme court shall so direct, and unless the public utility so appealing shall give a bond with like conditions and terms as that given on granting injunctions suspending an order of commission fixing rates. *Gen. Laws 1911, ch. 279, sec. 55.*

RHODE ISLAND Every appeal shall act as a stay of the order appealed from; provided, that the court, or if the court is not in session, any justice of such court may at any time order that such appeal shall not so operate if, in the opinion of such court, or justice, the appeal is brought for purposes of delay, or if justice, equity or public service shall so require; or such court or justice may order that such appeal shall so operate only upon compliance by the parties, or any of them, with such terms or conditions as such court or justice may determine; provided, further, that if the order of commission appealed from is sustained by the court, such order shall, if previously stayed under the provisions of this section, take effect and become operative for all purposes under this act within five days from the date of the decree sustaining such order, unless commission within such five days, shall upon the application of any party to such appeal fix a different time when such order shall take effect and become operative, and such order so fixing the time shall not be subject to review by any court of this state. *Acts 1912, ch. 795, sec. 35.*

SOUTH DAKOTA No appeal to said supreme court shall operate to stay or supersede the order of the court or the execution of any writ or process thereon. *Sess. Laws 1911, ch. 207, sec. 19.*

VIRGINIA

Upon the granting of an appeal, a writ of supersedeas may be awarded by the appellate court, suspending the operation of the action appealed from until the final disposition of the appeal; but, prior to the final reversal thereof, by the appellate court, no action of commission prescribing or affecting the rates, charges or classifications of traffic of any transportation or transmission company shall be delayed, or suspended, in its operation, by reason of any appeal by such corporation, or by reason of any proceedings resulting from such appeal, until a suspending bond shall first have been executed and filed with and approved by commission (or approved on review by the supreme court of appeals) payable to the commonwealth, and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of those fixed, or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding any supersedeas), of the order or requirement appealed 4491 from, to keep such accounts, and to make to the commission, from time to time, such reports, verified by oath, as may, in the judgment of commission, suffice to show the amounts being charged or received by the company, pending the appeal in excess of the charge allowed by the action of commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company pending the appeal, be not sustained on such appeal; and commission shall also, from time to time, require such company, under like penalty, to give additional security on, or to increase, the said suspending bond, whenever, in the opinion of commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal, in excess of that authorized by such final decision, shall be promptly refunded by the company to the parties entitled thereto, in such manner, and through such methods of distribution, as may be prescribed by commission, or by law. All such appeals affecting rates, charges or classifications of traffic, shall have precedence upon the docket of the appellate court, and shall be heard and disposed of promptly by the court, irrespective of its place of session, next after the habeas

corpus, and commonwealth's cases already on the docket of the court. *Const., sec. 156(e)*.

Commission may require a suspending bond on any appeal, in such penalty and with such surety thereon as it may deem sufficient, and may, during the pendency of any appeal, at any time, require the increase of any such bond or additional security thereon; provided, however, there shall be of right, regardless of the amount, an appeal from the action of commission refusing to approve a suspending bond, or requiring an increase thereof, or additional security thereon, in like manner as provided by subsections (d), (e), (f) and (g) of section 156 of the constitution. Commission may also require bond for the payment of costs in such penalty, and with such security, as it may deem sufficient, 4492 in any complaint, proceeding, contest, or controversy instituted or pending before it. All suspending bonds, and bonds for the payment of costs, taken or required to be taken by commission, shall be made payable to the commonwealth and may be enforced in the name of the commonwealth by motion or other legal proceeding or remedy before commission, or in any circuit or corporation court of this commonwealth having jurisdiction of a motion or action on such bonds, and the process and proceedings thereon shall be as provided by law upon bonds of the like character required and taken by any court of this commonwealth, and commission or such circuit or corporation court may render and enter up like judgments upon such bonds as may, by law, be rendered and entered upon bonds of like character, and process of execution shall issue from such judgments, and may be levied and executed as provided by law in other cases. *Pollard's Code 1904, sec. 1313a(35)*.

If any transportation company, upon the final decision of an appeal from the action of commission prescribing rates, charges, or classification of traffic, confirming or modifying the action of commission, shall fail to refund in the manner and within the time prescribed in the notice of commission all amounts which the appealing company may have collected pending the appeal, in excess of that authorized by such final decision, upon notice to such corporation by commission of such final decision, then commission after 30 days' notice to any such company, may, unless the amount required by such order be paid to the clerk of commission, render and enter judgment in the name of the commonwealth, for the use of the persons, firms, and corporations entitled to the same, against any such company for the aggregate amount

4493 of such collections and for costs, and may enforce the amount of such judgment and costs by process of execution, as hereinbefore provided as to the enforcement of the judgments of commission. The commission shall, upon the collection of said judgment, forthwith distribute the amount thereof, through its clerk, among the parties entitled thereto, respectively, in such manner as it may by its rules or orders prescribe and shall, upon the payment on collection of any such judgment, enter the same satisfied upon its records, and have the same entered satisfied on the judgment lien docket of the court of any city or county where the same may have been docketed, and the satisfaction of any such judgment shall be a bar to any further action or recovery against any such corporation to the extent of such recovery. *Same, sec. 1313a(36).*

WASHINGTON The pendency of any writ of review shall not of itself stay or suspend the operation of the order of the commission, but the superior court in its discretion may restrain or suspend, in whole or in part, the operation of commission's order pending the final hearing and determination of the suit. *Laws 1911, ch. 117, sec. 87.*

No order so restraining or suspending an order of commission relating to rates, fares, charges, tolls or rentals, or rules or regulations, practices, classifications or contracts affecting the same, shall be made by the superior court otherwise than upon three days' notice and after hearing, and if a supersedeas is granted the order granting the same shall contain a specific finding, based upon evidence submitted to the court making the order, and identified 4495 by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage; provided, however, that when any rate has been in force for any length of time exceeding one year, and such rate is advanced by the public service company, and the order of commission reinstates such prior rate, in whole or in part, no supersedeas shall be allowed in any case from such order pending the final determination of the cause in the superior court, or if appealed to the supreme court by such supreme court. *Same.*

In case the order of commission under review is superseded by the court, it shall require a bond, with good and sufficient surety, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of 4496 the order of commission, and all compensation for whatever sums for transportation, transmission or service any person or corpora-

tion shall be compelled to pay pending the review proceedings in excess of the sum such person or corporation would have been compelled to pay if the order of commission had not been suspended. *Same.*

4497 The court may in addition to or in lieu of the bond herein provided for, require such other or further security for the payment of such excess charges or damages as it may deem proper. *Same.*

WISCONSIN No injunction shall issue suspending or staying any order of commission except upon application to the circuit court or presiding judge thereof, notice to commission, and hearing. *Laws 1905, ch. 362, sec. 1797-16(a). Laws 1907, ch. 499, sec. 1797m-66.*

G. EXPEDITION OF CASES.

UNITED STATES In any suit in equity pending or hereafter brought in any circuit court of the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that hereafter may be enacted, wherein the United States is complainant, the attorney general may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending. Thereupon such case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable day, before not less than three of the circuit judges of said court, if there be three or more; and if there be not more than two circuit judges, then before them and such district judge as they may select or, in 4499 case the full court shall not at any time be made up by reason of the necessary absence or disqualification of one or more of the said circuit judges, the justice of the supreme court assigned to that circuit or the other circuit judge or judges may designate a district judge or judges within the circuit who shall be competent to sit in said court at the hearing of said suit. In the event the judges sitting in such case shall be equally divided in opinion as to the decision or disposition of said cause, or in the event that a majority of said judges shall be unable to agree upon the judgment, order, or decree finally disposing of said case in said court

which should be entered in said cause, then they shall immediately certify that fact to the chief justice of the United States, who shall at once designate and appoint some circuit judge to sit with said judges and to assist in determining said cause. Such order of the chief justice shall be immediately transmitted to the clerk of the circuit court in which said cause is pending, and shall be entered upon the minutes of said court. *Expediting Act 1903, sec. 1, as amended, 1910.*

Thereupon said cause shall at once be set down for reargument and the parties thereto notified in writing by the clerk of
4800 said court of the action of the court and the date fixed for the reargument thereof. The provisions of this section shall apply to all causes and proceedings in all courts now pending, or which may hereafter be brought. *Same.*

In every suit in equity pending or hereafter brought in any circuit court of the United States under any of said acts, wherein the United States is complainant, including cases submitted but not yet decided, an appeal from the final decree of the circuit court will lie only to the supreme court and must be taken within
4801 60 days from the entry thereof; provided, that in any case where an appeal may have been taken from the final decree of a circuit court to the circuit court of appeals before this act takes effect, the case shall proceed to a final decree therein, and an appeal may be taken from such decree to the supreme court in the manner now provided by law. *Same.*

ALABAMA

See par. 4290.

ARIZONA, CALIFORNIA

All actions and proceedings under this act, and all actions or proceedings to which commission or the people of the state may be parties, and in which any question arises under this act, or under or concerning any order or decision of commission, shall be preferred over all other civil causes except election
4802 causes and shall be heard and determined in preference to all other civil business except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the attorney of commission in any action or proceeding in which he may be allowed to intervene. *Ariz.—Sess. Laws 1912, ch. 90, sec. 69; Cal.—Stats. 1911, 1st. ex. sess., ch. 14, sec. 69.*

COLORADO

All appeals from commission to the supreme court of the state shall take precedence over all other litigation

then pending in either of said courts except criminal cases, and said courts shall, upon motion of the attorney general, advance such hearings on the calendars of said courts for as early hearing as possible. In all such appeals to the district court and in all the appeals to the supreme court, the attorney general shall represent commission as counsel; any party interested in the proceedings before commission may intervene and be heard as a party to the suit in the district court and in the supreme court, and in case of any such intervention the attorney general shall not dispose of or discontinue such suit or proceeding over the objection of such intervenor, but said intervenor may defend or continue such suit unaffected by any action or nonaction of the attorney general. *Laws 1910, sp. sess., ch. 5, sec. 17.*

ILLINOIS Suits commenced under the provisions of this act shall have precedence over all other business except criminal business. *Revisal 1909, ch. 114, sec. 132.*

INDIANA *See par. 2441.*

KANSAS *See pars. 4320, 4321.*

LOUISIANA *See pars. 4322, 4323.*

MARYLAND All actions and proceedings under this act, and all actions and proceedings commenced and prosecuted by order of commission, and all actions and proceedings to which commission may be a party and in which any question arises under this act, or under or concerning any order or action of commission, shall be preferred over all other civil causes except election causes, in all the courts of the state, and shall be heard and determined in preference to all other civil business pending therein, excepting election causes, irrespective of position on the dockets of said courts. The same preference shall be granted upon application of the general counsel to commission, or his assistant, in any action or proceedings in which the general counsel or his assistant may be allowed to intervene. *Laws 1910, ch. 180, sec. 6, as amended by Laws 1912, ch. 563.*

MICHIGAN *See par. 4337.*

MINNESOTA The district courts shall be deemed always open for all civil proceedings under this chapter, and any such proceeding may be brought to trial in any county in the judicial district and shall take precedence of all other matters except criminal cases. Except when there is a constitutional right to a trial by jury, not expressly waived, all such proceedings shall be tried summarily by the court. *Rev. Laws 1905, sec. 1976.*

MISSOURI

All suits instituted under the provisions of sections 3179 to 3207, shall have precedence in all courts having
4507 jurisdiction thereof over all other suits therein, except criminal actions. *Rev. Stats. 1909, sec. 3195.*

See also par. 4353.

MONTANA

All suits and proceedings filed in any court of this state, under the provisions of this law, shall have precedence
4508 over all other business in such court, save and except criminal business and original proceedings in the supreme court. *Rev. Codes 1907, sec. 4383.*

All suits between the state and any railroad shall have precedence in all courts over all civil causes, original proceedings in the supreme court excepted. *Same, sec. 4397.*

See also pars. 3974, 4355.

NEVADA

See par. 4361.

NEW HAMPSHIRE

All actions and proceedings under this act and all actions and proceedings commenced or prosecuted by order of commission, or to which commission may be a party or in which any question arises under this act, or under or concerning any order or action of commission, shall be preferred over all other civil causes except election causes in all courts of the state and
4510 shall be heard and determined in preference to all other civil business pending therein excepting election causes, irrespective of position on the calendar, and any such action or proceeding may upon motion of counsel for the state be heard in a different county from that in which it was begun if such course will expedite a final decision. *Laws 1911, ch. 164, sec. 16(b).*

NEW JERSEY

Any proceeding in any court of this state directly affecting an order of commission or to which commission is
4511 a party, shall have preference over all other civil proceedings pending in such court. *Laws 1911, ch. 195, sec. 40.*

NEW YORK

All actions and proceedings under this chapter, and all actions and proceedings commenced or prosecuted by order of either commission, and all actions and proceedings to which either commission or the people of the state may be parties, and in which any question arises under this chapter, or under the railroad law, or under or concerning any order or action of com-
4512 mission, shall be preferred over all other civil causes except election causes in all courts of the state and shall be heard and determined in preference to all other civil business pending therein excepting election causes, irrespective of position on the cal-

endar. The same preference shall be granted upon application of counsel to commission in any action or proceeding in which he may be allowed to intervene. *Laws 1910, ch. 480, sec. 21.*

NORTH CAROLINA *See par. 4377.*

OKLAHOMA In case of an appeal to the supreme court from the judgment of the corporation commission as herein provided, all cases so appealed shall have precedence therein, 4513 except as provided in the constitution, and it shall be the duty of the supreme court to advance the same on the docket for immediate consideration and proceed to final judgment without any unnecessary delay. *Sess. Laws 1908, ch. 18, art. iii, sec. 4.*

OREGON *See pars. 4399, 4404.*

RHODE ISLAND *See par. 4408.*

SOUTH DAKOTA *See par. 568.*

TENNESSEE All suits between the state and any railroad shall have precedence in all courts over all other suits pending 4514 therein, and the judges of such courts are hereby directed to advance such suits on their dockets. *Acts 1897, ch. 10, sec. 27.*
See also par. 4016.

TEXAS *See pars. 4017, 4411.*

WISCONSIN *See pars. 3231, 4432, 4442.*

ADDENDA

ALABAMA

A substantial compliance by the railroad commission with the requirements of this chapter shall be sufficient to give effect to all rules, orders, acts, and regulations of the commission. And they shall not be declared inoperative, illegal, or void for any omission of a technical nature, in respect thereto. *Code 1907, sec. 5718.*

CALIFORNIA

There is hereby created a railroad commission which shall consist of five members and which shall be known as the railroad commission of the state of California. The commission shall be appointed by the governor from the state at large; provided, that the legislature, in its discretion, may divide the state into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and provided further that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the governor immediately after the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur, the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Commissioners appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies shall, immediately upon their appointment, enter upon their duties of their offices. The legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers, and employes shall remain as now fixed by law. The legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this state, and no person in the employ of or holding any official relation to any person,

firm or corporation, which said person, firm or corporation is subject to regulation by said railroad commission, and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of railroad commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the order of the commission. *Const., art. xii, sec. 22.*

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by said commission, than the rates, fares and charges which are specified in such tariff. The commission
4517 shall have the further power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpoenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies. *Same.*

No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon the railroad commission additional powers of the same kind or
4518 different from those conferred herein which are not inconsistent with the powers conferred upon the railroad commission in this constitution, and the authority of the legislature to confer such

additional powers is expressly declared to be plenary and unlimited by any provision of this constitution. *Same.*

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the "Railroad Commission Act" of this state approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption of this provision of the constitution and of all other provision adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein. *Same.*

OREGON Commission shall provide for a comprehensive classification of service for each public utility, and such classification may take into account the quantity used, the time when used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls, and charges to such classification. *Gen. Laws 1911, ch. 279, sec. 33.*

VIRGINIA Upon the request of the parties interested, it shall be the duty of commission, as far as possible, to effect by mediation the adjustment of claims and the settlement of controversies between transportation or transmission companies and their patrons. *Const., sec. 156(b).*

The general assembly shall enact general laws regulating and controlling all issues of stock and bonds by corporations. Whenever stock or bonds are to be issued by a corporation, it shall, before issuing the same, file with commission a statement (verified by the oath of the president or secretary of the corporation, and in such form as may be prescribed or permitted by the commission) setting forth fully and accurately the basis, or financial plan, upon which such stock or bonds are to be issued; and where such basis or plan includes services or property (other than money), received or to be received by the company, such statement shall accurately specify and describe, in the manner prescribed, or permitted, by the commission, the services and property, together with the valuation at which the same are received or to be received; and such corporations shall comply with any other requirements or restrictions which may

be imposed by law. The general assembly shall provide adequate penalties for the violation of this section, or of any laws passed in pursuance thereof; and it shall be the duty of the commission to adjudge, and enforce (in the manner hereinbefore provided), against any corporation refusing or failing to comply with the provisions of this section, or of any laws passed in pursuance thereof, such fines and penalties as are authorized by this constitution, or may be prescribed by law. *Const., sec. 167.*

WISCONSIN No public service corporation shall declare ~~4523~~ any stock, bond, or scrip dividend, or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders. *Laws 1911, ch. 593, sec. 1753-14.*

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2c 55, 56, 57.
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2i 3748.
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5a 305.
5b 306, 386.
5c 2480.
7a 1486.
7b 1487, 1671.

7c 1384.
7d 1976.
8a 2877.
8b 2878.
10a 3691.

10b 387.
10c 983.
11a 984.
11b 2452.
11c 985.
11d 1424, 1425.
12a 3115.
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13a 3116, 3153.
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16c 176, 180, 183.
17a 3808.
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17c 4368.
17d 4369.
17e 4370.
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17g 4475.
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20 3061.

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40 2246.
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2 30, 55, 56, 62.
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5 30, 170, 176, 180,
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6 174, 175.
8 2510.
9 113.
11 67, 3467.
12 130.
13 51, 3749.
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 17*a* 308.
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 17*g* 2254.
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 18*a* 550.
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 18*e* 3260, 3289.
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 5 32, 51, 3757.
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 12 3863.
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 12 977.
 12*a* 977.
 12*b* 978.
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 13 3535.
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 14 980, 981, 982.
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 16 1422, 4361.
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 18 302.
 18*a* 2957.
 18*b* 433.
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 20 2873.
 22 1765.
 22*a* 1872.
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 24 2030.
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 8 2875.
 9 3060, 3861.
 12 1842, 1843.
 13 830, 1634.
 14 3465.
 15 3537.
 20 3662.
 21 3862.
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 23 2960.
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 17 3895.
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26 551, 2292.
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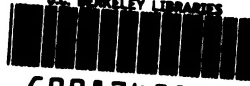
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